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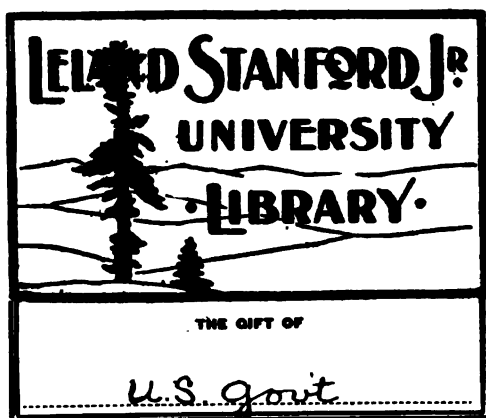
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INTERSTATE COMMERCE COMMISSION REPORTS

VOLUME 46

**DECISIONS OF THE
INTERSTATE COMMERCE COMMISSION
OF THE UNITED STATES**

JULY, 1917, TO OCTOBER, 1917

REPORTED BY THE COMMISSION



**WASHINGTON
GOVERNMENT PRINTING OFFICE
1918**

INTERSTATE COMMERCE COMMISSION.

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INTERSTATE COMMERCE COMMISSION REPORTS.

No. 8712.

COMMERCIAL CLUB OF MITCHELL, S. DAK., ET AL.
v.
AHNAPEE & WESTERN RAILWAY COMPANY ET AL.

FOURTH SECTION APPLICATIONS Nos. 461 ET AL.

Submitted October 17, 1916. Decided July 5, 1917.

1. Class rates to and from Mitchell, S. Dak., from and to points east or south of Sioux City, Iowa, and Sioux Falls, S. Dak., found unreasonable and unduly prejudicial. Reasonable maximum rates prescribed for the future, including proportional rates from the upper Mississippi River crossings.
2. Commodity rates to Mitchell constructed in relation to the corresponding commodity rates to Sioux Falls, recommended.
3. Fourth section relief denied.

P. W. Dougherty, J. J. Murphy, Oliver E. Sweet, D. L. Kelley, and E. J. Fellow for complainants.

C. C. Wright, R. H. Widdicombe, J. B. Sheean, O. W. Dynes, J. N. Davis, C. A. Lahey, A. F. Cleveland, and W. D. Burr for defendants.

C. E. Childe for Traffic Bureau of the Sioux City Commercial Club, intervener.

R. D. Springer for Traffic Bureau of the Sioux Falls Commercial Club, intervener.

A. J. Branscom for Traffic Bureau of the Aberdeen Commercial Club, intervener.

REPORT OF THE COMMISSION.

DANIELS, Commissioner:

The city of Mitchell, S. Dak., the Commercial Club of Mitchell, and various members of the commercial club engaged in business at Mitchell, complain that class and commodity rates to and from Mitchell from and to practically all points east and south thereof are unreasonable and unduly prejudicial against Mitchell in favor of various points in adjacent territory. The hearing disclosed that the

alleged undue preference is most noticeable as regards Sioux City, Iowa, and Sioux Falls, S. Dak. A readjustment of rates is asked diminishing the spread between the Mitchell rates and the corresponding rates to and from Sioux City and Sioux Falls in order principally that wholesale dealers at Mitchell may better compete in local distribution with wholesale dealers at the other two points and in the shipment of certain products of eastern South Dakota to markets east of the Mississippi River. The Traffic Bureau of the Sioux City Commercial Club and the Traffic Bureau of the Sioux Falls Commercial Club intervened at the hearing in opposition to the complaint and in support of the existing adjustment. The Traffic Bureau of the Aberdeen Commercial Club of Aberdeen, S. Dak., also intervened, but not definitely in favor of or against the complaint.

Sioux City is on the eastern bank of the Missouri River immediately south of the mouth of the Big Sioux River. Sioux Falls is on the Big Sioux, 91 miles north of Sioux City and about 15 miles west of the South Dakota-Minnesota boundary line. Mitchell is 72 miles west of Sioux Falls and 138 miles northwest of Sioux City. All three points are east of the Missouri River. The traffic involved moves longer distances to and from Mitchell than to and from Sioux City and Sioux Falls, but the rates maintained instead of yielding less per ton-mile than the corresponding Sioux City and Sioux Falls rates, yield more. They are frequently the full combinations on Sioux City or Sioux Falls, or are equivalent to the full combinations, with the consequence that the rates to Mitchell, distance considered, are higher than the corresponding rates to Sioux City and Sioux Falls. The revenues per ton-mile to and from Sioux Falls and Sioux City, on the other hand, decrease with increasing distances, and none of the rates to and from either point even approximates the full combination on the other. Wholesale dealers at Mitchell accordingly pay relatively higher rates than their competitors both on through inbound and outbound traffic. Complainants pray for rates to and from Mitchell which shall show lesser ton-mile yields than corresponding rates to and from Sioux City and Sioux Falls.

Class rates to Mitchell which in many cases are the same as the rates in the opposite direction will be first discussed; thereafter, commodity rates, and rates on outbound traffic. All rates are stated in cents per 100 pounds, except where otherwise specified.

CLASS RATES TO MITCHELL.

The class rates to Mitchell from representative points of origin compare with the corresponding rates to Sioux City and Sioux Falls as follows:

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From—	Miles.	1	2	3	4	5	A	B	C	D	E	Average.
Chicago, Ill. to—												
Sioux City.....	509	80	65	45	32	27	32	27	22	18.5	16	36.5
Sioux Falls.....	547	83	67.5	47	33.5	28	33.5	28	23	19.5	16.5	38
Mitchell.....	613	106	94	67	47	37	41	36	32	24	21	50.4
Duluth, Minn., to—												
Sioux City.....	422	80	65	45	32	27	32	27	22	18.5	16	36.5
Sioux Falls.....	343	80	65	45	32	27	32	27	22	18.5	16	36.5
Mitchell.....	485	106	90	66	47	37	41	36	32	24	21	49.9
St. Louis, Mo., to—												
Sioux City.....	508	80	65	45	32	27	32	27	22	18.5	16	36.5
Sioux Falls.....	576	83	67.5	47	33.5	28	33.5	28	23	19.5	16.5	38
Mitchell.....	655	115	94.5	68.1	49.7	41	46.5	39.2	32.9	27.6	22.8	53.7
Kansas City, Mo., to—												
Sioux City.....	288	80	65	45	32	27	32	27	22	18.5	13.6	36.2
Sioux Falls.....	379	80	65	45	32	27	32	27	22	18.5	16	36.5
Mitchell.....	438	104	79	64	47	37	42	36	30	25	20	48.4
New Orleans, La., to—												
Sioux City.....	1,166	130	95	73	61	43	47	42	32	20	28	57
Sioux Falls.....	1,257	126	100	77	65	45	49	44	34	31	30	60
Mitchell.....	1,316	167.4	127	98.1	81.2	58	62	55.2	43.9	39.1	36.3	75.8
New York, N. Y., to—												
Sioux City.....	1,422	147.2	120.9	93.4	67.1	56.9	.....	.....	.....	.....	.....	97.1
Sioux Falls.....	1,480	150.2	123.4	95.4	68.6	57.9	.....	.....	.....	.....	.....	99.1
Mitchell.....	1,525	162.2	127.9	112.4	88.1	71.9	.....	.....	.....	.....	.....	123.7

The rates from New York to Mitchell and all other class rates from points east of the Indiana-Illinois state line are the full combinations on Chicago or the combinations of proportional class rates to the Mississippi River with the local class rates beyond. The rates from New Orleans are the combinations on Sioux Falls. The rates from St. Louis are through rates substantially equal to the full combinations on Sioux Falls, while the rates from Kansas City are through rates substantially equal to the full combinations on Sioux City. The rates from Chicago are through rates lower than the combinations on any intermediate point. The rates from Duluth are the same as the rates from Chicago, except that the second and third class rates are lower from Duluth. All of the other class rates from Duluth were higher than the corresponding rates from Chicago, both when the complaint was filed and when it was heard, but were subsequently reduced to the Chicago basis. Proportional rates to and from Mississippi River crossings, East Dubuque, Ill., to East Burlington, Ill., inclusive, apply on traffic from points east of the Indiana-Illinois state line to Sioux City and Sioux Falls, while joint through rates apply from all of the other points of origin selected as representative.

Some of the traffic to Mitchell moves through Sioux City and some of it through Sioux Falls, but no terminal services are performed for such traffic at either point that can be compared with the services for which the local rates to and from both points pay when separate shipments are made in and out. Much of the Mitchell traffic does not pass through either point, but passes over what are the short-line routes between the two points.

The relation of the average Mitchell rates to the average Sioux City and Sioux Falls rates and of the corresponding distances are as follows:

Origin and destination.	Distance per-centage.	Average rate per-centage.	Origin and destination.	Distance per-centage.	Average rate per-centage.
Chicago to Mitchell:			Chicago to Sioux Falls:		
Percentage of Chicago to—			Percentage of Chicago to—		
Sioux City	120	138	Sioux City	107	104
Sioux Falls	112	133			
Duluth to Mitchell:			Duluth to Sioux Falls:		
Percentage of Duluth to—			Percentage of Duluth to—		
Sioux City	115	137	Sioux City	81	100
Sioux Falls	141	137			
St. Louis to Mitchell:			St. Louis to Sioux Falls:		
Percentage of St. Louis to—			Percentage of St. Louis to—		
Sioux City	129	147	Sioux City	113	104
Sioux Falls	114	141			
Kansas City to Mitchell:			Kansas City to Sioux Falls:		
Percentage Kansas City to—			Percentage Kansas City to—		
Sioux City	152	134	Sioux City	132	100
Sioux Falls	116	133			
New Orleans to Mitchell:			New Orleans to Sioux Falls:		
Percentage New Orleans to—			Percentage New Orleans to—		
Sioux City	113	133	Sioux City	108	105
Sioux Falls	105	126			
New York to Mitchell:			New York to Sioux Falls:		
Percentage New York to—			Percentage New York to—		
Sioux City	107	127	Sioux City	103	101
Sioux Falls	105	125			

The ton-mile yield of the average rates compare as shown in the following table:

From—	To Sioux City.			To Sioux Falls.			To Mitchell.		
	Miles.	Average rate.	Revenue ton-mile.	Miles.	Average rate.	Revenue ton-mile.	Miles.	Average rate.	Revenue ton-mile.
Chicago.....	509	Cents. 36.5	Mills. 14.34	547	38	13.89	613	Cents. 50.4	Mills. 16.44
Duluth.....	422	36.5	17.29	343	36.5	21.28	485	49.9	20.58
St. Louis.....	508	36.5	14.37	576	38	13.19	655	53.7	16.39
Kansas City.....	288	36.2	25.14	379	36.5	19.26	438	48.4	23.10
New Orleans.....	1,166	57	9.78	1,257	60	9.55	1,316	75.8	11.62
New York.....	1,422	97.1	13.65	1,456	99.1	12.58	1,525	123.7	16.22

¹ First five classes only.

There are no substantial differences in the physical conditions of operation to and from the three points.

Most of the shipments received by wholesale dealers at Mitchell move in carloads at fifth-class rates which from certain selected representative points of origin are from 9 cents to 14 cents per 100 pounds higher than the fifth-class rates from the same points to Sioux Falls and from 10 cents to 15 cents higher than the rates to Sioux

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City. Goods received in carloads at fifth-class rates are generally distributed from Mitchell in less than carloads at fourth-class rates. Competing dealers at Sioux City and Sioux Falls pay similar combination in and out rates. Comparison shows that the total rates through Mitchell frequently exceed the total rates through Sioux City and Sioux Falls, and that the Mitchell combinations equal the Sioux City and Sioux Falls combinations when on the score of distance Mitchell dealers apparently should have lower rates. The comparison of the aggregate of in and out rates via Mitchell with the in and out rates applying via its competitors is not intended to suggest that equality therein as between competing jobbing centers is required by the act, or is in all cases possible, but merely to illustrate the rate adjustment. The comparison follows.

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Chicago to—	Direction from Mitchell.	Through Sioux City.					Through Sioux Falls.					Through Mitchell.				
		Miles.	Class 5, C. L.	Class 4, L. C. L.	Total rate.	Total miles.	Miles.	Class 5, C. L.	Class 4, L. C. L.	Total rate.	Total miles.	Miles.	Class 5, C. L.	Class 4, L. C. L.	Total rate.	Total miles.
Woonsocket, S. Dak.	North.....	164.9	27	28.5	52.5	672.9	100.1	28	18.45	46.45	647.1	28.2	27	11.25	48.25	641.2
Redfield.....	do.....	224.4	27	30.5	57.5	725.1	159.4	28	22.95	55.95	705.9	87.7	27	12.55	54.55	700.7
Mount Vernon.....	West.....	143.5	27	23	50	485.1	111.3	28	22.95	48.25	635.8	11.5	27	8.1	54.1	624.5
Channahon.....	do.....	208.8	27	29	56	712.9	157.1	28	20.25	48.25	714.1	47.1	27	15.75	58.75	690.1
Marion.....	do.....	278.9	27	35	68	787.9	242.2	28	24.75	52.75	798.2	142.2	27	15.75	59	766.2
Rapid City.....	do.....	478.9	27	77	104	1397	384.3	28	51.5	70.5	1393.3	268.2	27	44	101.15	1349.5
Tripp.....	do.....	102.5	27	19	46	611.5	100.4	28	18.25	47.25	647.9	24.1	27	12.15	54.15	647.2
Elkhan.....	do.....	114.6	27	20	47	623.1	112.7	28	20.25	48.25	658.7	22.4	27	10.55	47.55	636.1
Elkhan.....	do.....	125.1	27	21	48	634.1	111.6	28	20.25	48.25	658.7	11.3	27	8.1	48.1	634.9
Marion Junction.....	do.....	105.5	27	19	46	614.5	55.8	28	14.55	43.55	633.7	44.2	27	12.5	50.5	627.2
Parmer.....	do.....	99	27	18.5	48.5	608	49.3	28	13.95	41.95	596.3	50.7	27	14.4	51.4	608.7

Dealers at Sioux City have lower total rates than dealers at Mitchell only to such points as Tripp, Parkston, Marion Junction, and Parker, south or southeast of Mitchell. To such destinations distribution from Mitchell involves a back haul. Dealers at Sioux Falls, however, have lower rates than Mitchell dealers not only to points so situated but also to points north of Mitchell, and enjoy approximately equal rates to certain points west of Mitchell. The total rates from Chicago to Woonsocket and Redfield, north of Mitchell, for example, are higher by way of Mitchell than by Sioux Falls, although the total distances by way of Sioux Falls, 647 miles to Woonsocket and 707 miles to Redfield, are substantially the same as the total distances by way of Mitchell, which are 641 miles to Woonsocket and 701 miles to Redfield. The total rate to Chamberlain, on the other hand, is the same by way of Sioux Falls as the rate by way of Mitchell, although the distance by way of Sioux Falls, 714 miles, is 34 miles greater than the distance by way of Mitchell, 680 miles. The distributing rates are accepted as being relatively fair; and to the inbound rates is attributed whatever maladjustment exists in the total rates.

Through rates ordinarily should be somewhat less than the lowest combinations of intermediate rates, and should yield somewhat less per ton-mile than the rates to intermediate points. But there are certain justifiable exceptions to the first principle, *Boston Chamber of Commerce v. A., T. & S. F. Ry. Co.*, 28 I. C. C., 280; while departures from the second are frequently approved, particularly where the more distant points are in regions of lower traffic density than the regions in which the intermediate points are located, *Interior Iowa Cities Case*, 29 I. C. C., 536, or different conditions of railroad competition obtain, *Concordia Commercial Club v. A., T. & S. F. Ry. Co.*, 39 I. C. C., 675. The defendants contend that the rates to Mitchell fall within these exceptional cases.

The rates to Sioux City are part of the Missouri River adjustment, which consists of the application of a 60-cent scale of rates from Mississippi River crossings, East St. Louis, Ill., to East Dubuque, Ill., inclusive, to Missouri River points, Kansas City to Omaha, Nebr., inclusive; the application of a 55-cent scale of proportional rates between the same points on traffic from points east of the Indiana-Illinois state line; and the application of an 80-cent scale from Chicago; the adjustment being due largely to competition between the various carriers to the Missouri River from the Mississippi River and Chicago for traffic to the Missouri River and points still farther west. See *Burnham, Hanna, Munger Co. v. C., R. I. & P. Ry. Co.*, 14 I. C. C., 299, and *Warnock Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 546. Defendants contend that none of these scales ought

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logically to have been applied originally to any point on the Missouri River north of Omaha.

The Illinois Central Railroad, however, which had a line from Chicago to Sioux City, but was at that time without a line to Omaha, insisted on including Sioux City in the adjustment. A 70-cent scale applied for a time to Sioux City and later a 75-cent scale, the rates to Sioux Falls being based first on a 76-cent scale and then, successively, on 70-cent, 75-cent, and 81-cent scales until finally the present 80-cent scale was established to Sioux City and an 86-cent scale to Sioux Falls. The rates to Sioux Falls from Chicago were attacked in *Daniels v. C., R. I. & P. Ry. Co.*, 6 I. C. C., 458, and found unlawfully adjusted to the extent that they severally exceeded 104 per cent of the Sioux City rates, the short-line distance to Sioux Falls being 108 per cent of the short-line distance to Sioux City. The rates from Duluth to Sioux Falls were also condemned to the extent that they exceeded the rates from Duluth to Sioux City, Sioux Falls being intermediate from Duluth to Sioux City.

On the basis of distance and railroad facilities alone Sioux Falls appeared to be entitled to substantially the same rates from Chicago as Sioux City and to lower rates from Duluth, but the established application of Missouri River rates to Sioux City, although originally somewhat arbitrary, and the disturbance that would probably have resulted from the application of Sioux City rates from Chicago to Sioux Falls was thought to justify slightly higher rates to Sioux Falls. Sioux Falls was found to have a population of about 12,000; Sioux City a population of about 45,000; and the amount of freight transported in both directions between Chicago and Sioux City was found to be greatly in excess of the tonnage to and from Sioux Falls. The 80-cent scale from Chicago to Sioux City and the 83-cent scale prescribed from Chicago to Sioux Falls applied and still apply only by way of the so-called upper Mississippi crossings, East Dubuque to East Burlington, Ill., inclusive.

Comparative tonnage statistics were put in evidence by the defendants as follows:

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Tons per mile per mile of road.

Carrier.	Traffic density.	Carrier.	Traffic density.
South Dakota:	Tons.	Illinois:	Tons.
C, M. & St. P.	410, 843	C, M. & St. P.	1, 913, 375
C. & N. W.	131, 594	C. & N. W.	1, 766, 575
All lines	245, 615	All lines	1, 539, 429
Minnesota:		Wisconsin:	
C, M. & St. P.	905, 209	C, M. & St. P.	925, 246
C. & N. W.; C, St. P., M. & O.	623, 523	C. & N. W.	961, 985
All lines	960, 859	All lines	984, 602
Iowa:		Missouri:	
C, M. & St. P.	765, 667	C, M. & St. P.	1, 430, 518
C. & N. W.	931, 444	C. & N. W.	
All lines	682, 242	All lines	
Nebraska:		Kansas:	
C, B. & Q.	496, 509	A., T. & S. F.	578, 239
C. & N. W.	234, 686	M. F.	361, 449
U. P.	1, 152, 348	U. P.	505, 732
All lines	575, 922	All lines	549, 423

These figures would seem to indicate that rates to South Dakota may fairly be compared with rates to Kansas and Nebraska, and the following comparisons are from tariffs on file with this Commission:

From—	To—	Miles.	1	2	3	4	5	A	B	C	D	E
Chicago.....	Mitchell.....	612	105	94	67	47	37	41	36	32	24	21
Do.....	Horners, Kans..	615	124	105	80	60	51	52	42.5	34	28	22.5
Do.....	Norfolk, Nebr..	593	115	95	71	52	43	46	40	36	26.5	21.5
Iowa points....	Nebraska and Kansas points.	620	118	97.3	71.6	54.8	44.1	51	40.3	33.4	28	22.5
St. Louis.....	Dodge City, Kans.	616	142	119	98	78	61	68	50	42	35	28

¹ Ordered same as rates to Columbus, Nebr., in *Johnson v. C, St. P., M. & O. R. Co.*, 9 I. C. C., 221.

² Effective Oct. 25, 1916, following decision in the *Missouri River-Nebraska Case*, 40 I. C. C., 201.

³ Rates for one-line hauls of 620 miles per scale prescribed in *Iowa State Board of R. R. Commissioners v. A. E. R. R. Co.*, 23 I. C. C., 193 and 563.

⁴ Prescribed in *State of Kansas v. A., T. & S. F. Ry. Co.*, 27 I. C. C., 673.

Rates between two localities are not comparable with rates between two different localities merely because the traffic density of one destination locality is substantially the same as that of the other. The relative traffic density of the two localities of origin and of the intermediate territories must also be considered. As the traffic density shown for Illinois exceeds that shown for Iowa and Missouri the rates from Chicago to Mitchell can not fairly be measured by the rates cited from Iowa and St. Louis. The rates cited to Horners and Norfolk are equally untenable as standards by which to measure the Mitchell rates for the reason that traffic to both points from Chicago must cross the Missouri River, which operation was recognized in *Iowa State Board of R. R. Commissioners v. A. E. R. R. Co.*, *supra*, as rendering the cost of service relatively higher to points west of the river than to points east of

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it and as justifying relatively higher rates. A more fundamental objection to all of the comparisons, however, is that they tend only to prove that the rates to Mitchell are not disproportionately high in comparison with rates to points in Kansas and Nebraska. But the question at issue is whether the rates to Mitchell are disproportionately high and therefore unduly prejudicial in comparison with the rates to Sioux City and Sioux Falls.

The defendants' figures show pretty clearly that relatively lower rates may with propriety be maintained to Sioux City than to South Dakota generally. But they do not show that the rates to Sioux City should in any marked degree be relatively lower than the rates to Mitchell or that the rates to Mitchell should be relatively higher than the rates to Sioux Falls, which is also in South Dakota. State boundary lines sometimes may fairly define regions of different traffic density when the rates to all points in such regions are in issue, but rates to particular points in one region can not fairly be compared with rates to competing points in the same region or in other regions on the basis of the tonnage to and from such regions as a whole. The actual tonnage handled to and from the particular points is a fairer criterion. It is noteworthy in this connection that the western part of South Dakota is less populous and originates relatively much less traffic than the eastern part of the state; and that higher intrastate rates are permitted by the state board of railroad commissioners in the western than in the eastern part of the state.

The following statistics submitted by the defendants show the traffic density on the different divisions of the Milwaukee's lines across Iowa and Minnesota to South Dakota, including the divisions to or through Sioux City, Sioux Falls, and Mitchell, and are more significant:

Line.	Division.	Miles.	Gross ton-miles. ¹	Gross ton-miles per mile of division.	Average tons per train.
Sioux City.....	Savanna, Ill., Marion, Iowa.....	89	50,516,100	567,556	1,639
Do.....	Marion-Perry, Iowa.....	135	71,604,000	530,400	1,531
Do.....	Perry-Manilla-Council Bluffs, Iowa.....	122	52,163,000	427,595	1,066
Do.....	Manilla-Sioux City.....	92	22,959,200	249,556	968
Do.....	Sioux City-Mitchell.....	137	24,184,900	176,582	812
Canton.....	Savanna-North McGregor, Iowa.....	164	72,398,800	441,456	1,354
Do.....	North McGregor-Mason City, Iowa.....	117	23,514,500	201,545	877
Do.....	Mason City-Sanborn, Iowa.....	126	22,325,300	177,184	807
Do.....	Sanborn-Canton-Mitchell.....	131	17,586,000	134,244	735
Branch.....	Edpoin-Sioux Falls-Egan.....	105	9,892,600	94,215	610
Minnesota.....	La Crosse, Wis.-Crocon, Minn.....	102	9,903,300	97,091	741
Do.....	Austin-Jackson, Minn.....	107	12,895,000	120,519	794
Do.....	Jackson-Pipestone-Egan-Madison, S. Dak.....	124	6,703,400	54,069	667
Main.....	La Crosse-St. Paul-Minneapolis, Minn.....	128	133,577,300	1,043,571	2,155
Do.....	St. Paul-Minneapolis-Montevideo, Min.....	133	82,524,700	620,486	2,328
Do.....	Montevideo-Aberdeen.....	152	91,597,000	603,248	2,403
Sioux City.....	Mitchell-Aberdeen.....	120	23,331,000	180,867	1,190
Main.....	Aberdeen-Mobridge.....	95	50,330,700	574,802	1,843

¹ Weight of load and equipment multiplied by miles traversed.

These figures might be construed to indicate that Mitchell should have relatively higher rates than Sioux City but relatively lower rates than Sioux Falls. A great deal of the traffic over the divisions through Mitchell, however, is transcontinental traffic, and the traffic to and from Sioux Falls is not representative, as the Milwaukee has only a branch line to Sioux Falls and must compete for the traffic from and to Chicago, for example, with the Illinois Central, the Rock Island, and the North Western. Figures adduced by the complainants relating to the relative tonnage between these three points are inconclusive for the same reason.

Some competition is encountered by the complainants from Watertown, S. Dak., a city of about 8,000 inhabitants in Codington county, northeast of Mitchell and northwest of Sioux Falls, on the North Western, the Great Northern, and the Rock Island railroads.

The following class rates from Chicago and St. Louis to Watertown were approved in *Class Rates to Watertown, S. Dak.*, 26 I. C. C., 635:

From—	Miles.	1	2	3	4	5	A	B	C	D	E	Average.	Ton-mile revenue.
Chicago.....	593	96	82	64	45	35	38	32	28	23	20	46.3	15.6
St. Louis.....	659	115	90	68	48	38	41	35	30	25	22	51.2	15.5

The ratios of these average rates and distances to the average rates and distances from Chicago and St. Louis to Sioux Falls together with the ton-mile yield of the aggregates are as follows:

Origin and destination.	Distance percentage.	Rate percentage.	Ton-mile revenue (mills).
Chicago to Watertown.....	.....	.....	15.61
Chicago to Sioux Falls.....	108	122	13.80
St. Louis to Watertown.....	.....	.....	15.83
St. Louis to Sioux Falls.....	114	135	13.19

The rates to Watertown are considerably higher relatively than the rates to Sioux Falls, earning about 2 mills more per ton-mile despite the longer hauls to Watertown. A similar adjustment was prescribed in *Minneapolis Civic & Commerce Assn. v. C., M. & St. P. Ry. Co.*, 30 I. C. C., 663; with respect to rates to South Dakota from Minneapolis and St. Paul. The rates applicable to South Dakota points were reduced but were left relatively higher than the rates to points in western Minnesota.

The rates to Mitchell undoubtedly require some revision, but on the other hand can not fairly be reduced to the extent asked by the com-

plainants, as the conditions disclosed clearly justify relatively higher rates to Mitchell than to Sioux City and Sioux Falls. Considering the situation as a whole, we find that the present class rates to Mitchell from Chicago, Duluth, St. Louis, Kansas City, and New Orleans and points taking the same rates are and for the future will be unreasonable and unduly prejudicial to Mitchell to the extent that they exceed or may exceed the following rates:

To Mitchell from—	1	2	3	4	5	A	B	C	D	E
Chicago.....	99	89	64	45	35	30	34	30	28	20
Duluth.....	99	89	64	45	35	30	34	30	23	20
St. Louis.....	108.5	89.2	66	47.5	38.8	44	37	30.8	26.5	21.7
Kansas City.....	98	74.8	61	45	35	30.9	32.5	28	24	19
New Orleans.....	143	120	94	78	55	50	53	41	37	35

The proportional rates applied from eastern points to the Mississippi River on traffic going to the Missouri River and beyond are the rates applicable to St. Louis applied as proportional rates to the crossings farther north. The 55-cent scale of proportional rates applicable beyond to the Missouri River applies only to Missouri River points from Kansas City to Sioux City, both inclusive, and to Sioux City applies only by way of the upper crossings. The rates to Sioux Falls were not in issue when the proportionals between the rivers were required instead of the local rates previously used, in *Burnham, Hanna, Munger Co. v. C., R. I. & P. Ry. Co., supra*, and *Warnock Co. v. C. & N. W. Ry. Co., supra*, but the carriers immediately established a corresponding scale of proportionals from the upper Mississippi crossings to Sioux Falls equal to 104 per cent of the proportionals to Sioux City. Proportional rates also apply to most points west of the Missouri River to which the traffic moves through the Mississippi River crossings, St. Louis to Dubuque, and the Missouri River crossings, Kansas City to Sioux City; but not to points in Minnesota, North Dakota, nor to all points in South Dakota.

The full combinations on Chicago or the combinations of proportionals to the Mississippi River with the full locals beyond, whichever combination is lower, which are charged on traffic from the east to Mitchell, generally exceed the aggregates of the rates to Sioux Falls and the local rates beyond on the first three or four classes, as is illustrated by the following comparison:

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From—	To—	1	2	3	4	5
Detroit, Mich.....	Chicago, Ill.....	88.9	33.6	24.7	16.3	12.7
Chicago, Ill.....	Mitchell, S. Dak.....	105	94	67	47	37
Total.....		143.9	127.6	91.7	63.8	50.7
Detroit, Mich.....	Mississippi River.....	48.3	41.5	32	22.1	18.9
Mississippi River.....	Sioux Falls, S. Dak.....	53	48.5	34	25.5	21
Sioux Falls, S. Dak.....	Mitchell, S. Dak.....	32.4	27	21.15	16.2	13.05
Total.....		138.7	112	87.15	63.8	52.95
Excess Chicago combination over Sioux Falls combina- tion.....		5.2	15.6	4.55	0	0

The defendants refuse to apply the Sioux Falls combinations and will apply only the Chicago combinations, although the proportional rates applicable to the Mississippi River for beyond apply over routes through Chicago. No justification appears for the departures, which this practice involves, from the requirements of the fourth section which we here find to be unlawful. The defendants argue that the proportionals maintained to the Mississippi River are designed for traffic to defined territory beyond; and that the application of the rates to and from Sioux Falls would involve the use of these proportionals for traffic to points outside of the defined territory, which would defeat the purpose of the proportional rate. But this argument is plainly unavailing as the complainants are asking only not to be charged more on through shipments to Mitchell from the east than they could lawfully be charged if the shipments were made to Sioux Falls and reshipped there to Mitchell.

The history of the proportional rates to Sioux City and Sioux Falls explains the denial of proportional rates to Mitchell but fails to disclose any real justification for it. Traffic from the east to points in Minnesota and North Dakota and to many points in South Dakota generally crosses the Mississippi River at such points as La Crosse and Winona, north of East Dubuque, and may possibly be differentiated from traffic to the Missouri River and Sioux Falls for that reason, but most if not all of the traffic to Mitchell moves through East Dubuque or some point farther south. One of the defendants' witnesses testified that there is not enough traffic to Mitchell to warrant proportional rates, but without adducing any specific figures.

We find that the class rates to Mitchell from points east of the Indiana-Illinois state line and north of the Ohio and Potomac rivers are, and for the future will be, unreasonable and unduly prejudicial to the extent that they exceed, or may exceed, rates composed of the contemporaneous proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and

Sioux Falls, and of proportional rates to Mitchell from the Mississippi River crossings, East Burlington to East Dubuque, inclusive, not exceeding the following:

Class	1	2	3	4	5	A	B	C	D	E
Rate.....	69	57.5	46.5	34	26	27.5	23	21	15.5	12.5

Class rates from all other points involved should be readjusted on the basis of the rates specifically prescribed, and where any of the present rates apply in both directions between the points of application, the rates substituted should similarly be made applicable in both directions.

COMMODITY RATES TO MITCHELL.

Illustrative commodity rates to Mitchell, Sioux City, and Sioux Falls are as follows:

From—	Commodity.	To Sioux City.	To Sioux Falls.	To Mitchell.
Chicago, Ill.	Agricultural implements, hand.....	22	33.5	60.5
	Canned goods.....	27	28	34
	Furniture.....	23	33.5	62
	Glucose.....	23.5	24.5	26
	Paper, building.....	16	16.5	26.5
	Pipe, iron.....	18.5	19	37
	Starch.....	19	18.5	25
	Vinegar.....	22.5	23.5	26.5
	Wire articles.....	27	28	33.5
New Orleans, La.	Bananas.....	60	73	88
	Coffee.....	35	36	48
	Rice, clean.....	43	45	57
	Sugar.....	33	32.5	36.5
New York, N. Y.	Coffee.....	44.9	45.9	50.9
	Sugar.....	41.9	42.4	47.4
Suffolk, Va.	Peanuts.....	65	66.5	81.7
Richmond, Va.	Tobacco.....	104	106	126
Shreveport, La.	Vegetables.....	48	48	61.06
Jacksonville, Fla.	Citrus fruits.....	66	70	104.5
Winsboro, Tex.	Watermelons.....	52	59	66
High Island, Tex.	Potatoes and vegetables (class C)....	57	64	71
Glencoe, Ark.	Cabbage.....	62	62	76
	Box shooks.....	26.5	28	35

¹ Class.

The same general conditions affect the commodity rates to Mitchell as affect the class rates. Commodity rates, however, are made with greater regard for the actual volume of movement, and relative commodity rate adjustments can only be reviewed satisfactorily when the relative volume of movement of the various commodities involved is known. The record before us contains nothing of this kind, and so precludes the fixing of specific commodity rates. We incline, however, to say that no commodity rate should be maintained to Mitchell the ratio of which to the corresponding commodity rates to Sioux Falls exceeds the ratio of the corresponding class rates to Mitchell and Sioux Falls for the class in which the commodity is rated in the governing classification.

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OUTBOUND RATES.

The only outbound rates discussed in detail at the hearing were the rates on butter, eggs, and poultry. Dealers in these articles at Mitchell buy them in the surrounding territory in competition with dealers at Sioux City and Sioux Falls for resale, generally, in the markets of Chicago and New York. The inbound rate adjustment is not assailed but the outbound rates to Chicago and New York are considered prejudicial to dealers at Mitchell. These rates are as follows:

From—	To Chicago:					To New York.				
	Miles.	Butter.	Eggs.	Dressed poultry.	Live poultry.	Miles.	Butter.	Eggs.	Dressed poultry.	Live poultry.
Sioux City.....	509	45	45	45	65	1,422	113.3	113.3	123.8	124.9
Sioux Falls.....	547	47	47	47	67.5	1,459	115.3	115.3	125.8	127.4
Mitchell.....	613	55	55	55	94	1,533	123.8	123.3	133.8	157.9

All of the rates to Chicago except the rates from Mitchell on butter, eggs, and dressed poultry are class rates. The rates from Mitchell to New York on butter, eggs, and dressed poultry are combinations of the 55-cent commodity rates to Chicago with the class rates applicable beyond, while the rate on live poultry is composed of the class rate applicable from Mitchell to the Mississippi River and the proportional class rate beyond. The Sioux City and Sioux Falls rates to New York on butter, eggs, and dressed poultry are the combinations of class rates on Chicago, while the rates on live poultry are combinations of the proportional class rates to and from the Mississippi.

The 55-cent commodity rate from Mitchell to Chicago is lower than the third-class rate which would otherwise apply and is not shown to be unreasonable or unjustly discriminatory. The second-class rate of 94 cents now in effect from Mitchell to Chicago on live poultry will be reduced under our conclusions herein to 89 cents, the rate which we have just prescribed as a maximum for second-class traffic between Chicago and Mitchell. The rates to New York on butter and eggs and on dressed poultry are not unreasonable, but the 157.9-cent rate on live poultry to New York is unreasonable to the extent that it exceeds 137.6 cents.

FOURTH SECTION VIOLATIONS.

Some of the rates to Mitchell exceed the aggregates of the rates to and from Sioux Falls over the same routes, generally where commodity rates apply to Sioux Falls, and only class rates are 46 I. C. C.

applicable to Mitchell. Fourth section applications covering all such rates on defendants' lines have been on file for some time and were set for hearing with the complaint to the extent that they concerned rates to Mitchell. Illustrative rates are as follows:

Commodity.	Class.	Chicago to Sioux Falls.	Sioux Falls to Mitchell.	Total.	Chicago to Mitchell.
Agricultural implements, hand.....	3	33.5	21.1	54.6	¹ 60.5
Axes.....	3	36.5	21.1	57.6	67
Bags and bagging, clayed cotton.....	3	22	21.1	43.1	67
Baskets, splint stave.....	2	² 47	21.1	68.1	³ 94
Cartridge shells, loaded.....	3	28	21.1	49.1	60
Paint, mortar color, yellow and whiting.....	6	17.5	9.9	27.4	30.25
Pipe (iron and steel and connections).....	5	19	13	32	37
Sodas.....	5	15.5	13	28.5	33

¹ 24,000 pounds minimum.

² 9,000 pounds minimum.

³ 10,000 pounds minimum.

No justification is offered for any of these adjustments. Instead it is explained that the movement of such commodities to Mitchell has been so light that the rates have never been closely examined with a view to eliminating discrepancies forbidden by the fourth section. Defendants' fourth section applications will be denied.

REPARATION.

It is requested in the complaint that if the rates assailed are condemned, "the complainants, and all other persons, firms, and corporations in whose behalf the complaint is instituted be given an opportunity to present their claims for reparation in these proceedings" and that defendants be required to make reparation.

We find that under all of the circumstances disclosed no reparation should be awarded.

Appropriate orders will be entered.

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No. 8832.
TARKIO MOLASSES FEED COMPANY
v.
CHICAGO, BURLINGTON & QUINCY RAILROAD
COMPANY ET AL.

Submitted July 13, 1916. Decided July 6, 1917.

Rates applicable on flaxseed screenings were erroneously assessed on 72 carloads of linomeal from Minneapolis, Minn., to Tarkio, Mo., resulting in overcharges. Proper rate was that applicable on grain screenings.

Wentworth E. Griffin and *E. T. Gervais* for complainant.
Kenneth F. Burgess and *L. C. Mahoney* for defendants.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

This proceeding involves a matter of tariff interpretation only, and the question for determination is, What was the proper rate to apply on certain carload shipments of a commodity known to the trade as "linomeal," moving from Minneapolis to the plant of the complainant at Tarkio, a local station on the Chicago, Burlington & Quincy Railroad in the state of Missouri? The defendants contend that the commodity was flaxseed screenings, and therefore they collected charges on the basis of a rate of $23\frac{1}{2}$ cents per 100 pounds. The complainant, on the other hand, asserts that the commodity was ground grain screenings upon which charges should have been assessed on the basis of a rate of 11 cents per 100 pounds.

It appears that the complainant manufactures stock feeds of various kinds, in which molasses is an important ingredient. As a filler it uses grain screenings, some of which come to it in the form of linomeal. The latter commodity is made by a concern in Minneapolis out of the screenings of wheat, oats, and barley purchased at various mills in the northwest and in Canada. By a cleaning process any grains or seeds of value are first removed from the screenings. The remainder, consisting largely of weed seeds, is then ground and the product is sold under the trade name mentioned. The record indicates that but little grain is marketed in that section of the country that does not contain some flaxseed, most of which is removed at the mill or elevator during the first cleaning process. It happens, however, that the screenings received by the manufacturer of linomeal sometimes contain as much as 3 or 4 per cent of flaxseed. The flaxseed is not

used in the manufacture of linomeal and a special process is used to remove any such seed from the screenings. But, as an accident or incident of manufacture, that commodity often does contain small quantities of flaxseed, estimated at from one-half to 1 per cent of the total weight. We refer to this as an accident or incident in the manufacturing process because it is apparently not possible to remove all the flaxseed from the grain screenings, although the manufacturer of linomeal makes the effort to do so.

At the time these shipments of linomeal moved to Tarkio, on which the rate of $23\frac{1}{2}$ cents was collected, there was in effect to Kansas City on flaxseed screenings a rate of $15\frac{1}{2}$ cents, and because, as stated by its witness, the Burlington, as a general proposition, "always observes the Kansas City rate * * * at Tarkio," that carrier is willing to admit that $23\frac{1}{2}$ cents was an unreasonable rate in so far as it exceeded the rate of $15\frac{1}{2}$ cents. But the interpretation of the Burlington's tariff placed upon it by the same witness is that screenings that contain flaxseed, whether they are screenings from grain or from flaxseed, "are subject to the flaxseed screenings rate," and this was the rate assessed on the shipments in controversy. No such interpretation, however, was placed upon its tariff by the Burlington until August 12, 1914. The complainant had purchased thousands of tons of linomeal from the company that manufactures it, and on its shipments to Tarkio prior to that date it had paid the proportional rate of 11 cents applicable on grain screenings. This rate is still in effect. Flaxseed screenings are valued at from \$19 to \$21 a ton, while grain screenings are worth from \$10 to \$17.50 a ton f. o. b. point of origin. The 72 carloads that moved between August 12, 1914, and March 1, 1916, were billed out by the manufacturer exactly as prior shipments had been, namely, as "gr. screenings" or "ground grain screenings." But upon their arrival at destination charges were collected on the basis of the rates applicable on flaxseed screenings. The record shows that this action of the Burlington was based on a statement by one of its traffic officials to the effect that linomeal was actually flaxseed screenings. In December of that year, however, the Burlington was advised by the western weighing and inspection bureau that the grain screenings rate might properly be applied on linomeal. So far as the record shows, however, no action was taken by the Burlington to correct an obvious misinterpretation by it of its own tariff. The commodity shipped was neither crushed nor ground flaxseed nor flaxseed screenings; the latter commodity, as described by a witness for the complainant, consists "of the fine stuff that goes through the oblong hole with the flax and later through a little round hole that the flax will not go through. Other screenings are known as coarse screenings." According to the record, if these shipments of linomeal on which

reparation is demanded contained any ground flaxseed, it must have been negligible in amount and was blended in the commodity only because the flaxseed, by any available process, could not be separated in its entirety from the weed and other seeds that made up the bulk of the product. As before stated, the complainant asserts that it does not buy flaxseed or flaxseed screenings for use in its linomeal, but, on the contrary, makes every effort to glean the flaxseed from all the screenings used in its manufacturing process. Assuming the correctness of the facts stated of record, and there is no reason to doubt the good faith of the showing made, we are unable to accept the defendants' contention that linomeal made from screenings of grains other than flaxseed is not entitled to take the grain screenings rate, but must take the rate on flaxseed screenings, simply because it contains a small quantity of ground flaxseed, not exceeding 1 per cent of its total weight, notwithstanding the efforts of the complainant to remove all the flaxseed from it. Such a commodity seems to be essentially different from flaxseed screenings purchased as such and then submitted to the grinding process, and essentially different from other screenings containing a substantial percentage of flaxseed, to remove which no effort is made. As to the screenings described on this record we think it clear that the flaxseed screenings rate was inapplicable. As we have said, the shipments of linomeal made prior to August 12, 1914, were billed out as "gr. screenings" or "ground grain screenings," and were assessed the specific rate of 11 cents published on grain screenings from Minneapolis to Tarkio. This latter rate should be so revised as to remove any possible doubt as to its application to ground grain screenings.

Our finding is based upon the facts of the particular case before us, and in our view the tariff of the Burlington, properly interpreted, provided for the application on shipments of this commodity of the rate on grain screenings. It follows, therefore, that any amounts collected by the defendants on the shipments here involved in excess of the amounts that should have been collected on the basis of the rates, local or proportional, on grain screenings are overcharges which should promptly be refunded to the complainant.

The exact amount due can not be determined on this record. But upon the receipt of a statement prepared and verified according to rule V of the Rules of Practice showing the necessary details as to the shipment in question, we shall consider the entry of an order.

No. 8477.

BOARD OF RAILROAD COMMISSIONERS OF THE STATE
OF IOWA

v.

ANN ARBOR RAILROAD COMPANY ET AL.

Submitted May 2, 1917. Decided July 6, 1917.

1. From points in central freight association territory, west of the Pittsburgh-Buffalo line and east of the Indiana-Illinois state line, there should be no difference in the rates to the upper group cities in Iowa on the Mississippi River and to St. Louis, when the distances to the upper group cities are equal to or less than the distances to St. Louis; but for each 25 miles or fraction thereof that the distances to the upper group cities exceed the distances to St. Louis, rates to the upper group cities may exceed the rates to St. Louis by 1 cent on the first two classes and one-half cent on the remaining four classes.
2. From Pittsburgh, Buffalo, and points taking the same rates, to cities on the west bank of the Mississippi River from and including Dubuque on the north to and including St. Louis on the south, the class rates shall not exceed 64 per cent of the rates contemporaneously maintained between New York City and St. Louis.
3. The basis herein found proper will apply both eastbound and westbound, and the carriers will be expected to adjust their commodity rates in conformity therewith.

Clifford Thorne and *J. H. Henderson* for Iowa State Board of Railroad Commissioners; *W. B. Martin* for Traffic Association of the Upper Mississippi River Cities; *John S. Burchmore* for Madison Board of Commerce, Beloit Businessmen's Association, and others.

R. B. Scott and *F. K. Burgess*, for Chicago, Burlington & Quincy Railroad Company; *Ernest S. Ballard* for New York Central lines; *W. F. Dickinson* for all defendants.

REPORT OF THE COMMISSION.

This proceeding in a sense is supplementary to *The Mississippi River Case*, 28 I. C. C., 47, and 29 I. C. C., 530; it also is closely related to the *Interior Iowa Cities Case*, 28 I. C. C., 64, and 29 I. C. C., 536, which was reopened on petitions for rehearing and is now pending before the Commission. In the case first cited the class-rate adjustment between the territory east of the Indiana-Illinois state line and the cities in the state of Iowa on the Mississippi River was brought in issue. That same adjustment, to the extent that it affected the construction of through rates to and from the interior

Iowa cities, also was dealt with in the case last cited. In respect of traffic to and from the central freight association territory the Commission is asked, in the complaint here before it, to place the Iowa cities, located on the Mississippi River, upon a rate parity with St. Louis, Mo.

GROUPING OF THE RIVER CITIES AND HOW THEY ARE REACHED.

In its course southward the Mississippi River, so far as the rates here in issue are concerned, forms the boundary between the official and the western classification territories, and also an uneven rate line, made so by dividing the cities between Dubuque on the north and St. Louis on the south into two groups, commonly known as the upper group cities and the lower group cities. The grouping is shown in the following table:

Upper group cities.		Lower group cities.	
West bank.	East bank.	West bank.	East bank.
Dubuque, Iowa. Davenport, Iowa. Muscatine, Iowa. Burlington, Iowa. Fort Madison, Iowa. Keokuk, Iowa.	East Dubuque, Ill. Savanna, Ill. East Clinton, Ill. Rock Island, Ill. Keithsburg, Ill. East Burlington, Ill. East Fort Madison, Ill. East Keokuk, Ill.	West Quincy, Mo. Hannibal, Mo. Louisiana, Mo. St. Louis, Mo.	East Louisiana, Ill. Quincy, Ill. East Hannibal, Ill. Alton, Ill. East St. Louis, Ill.

Traffic actually crosses the river at all the points named excepting Muscatine, where there is no railroad bridge or other facilities, although that point has long been treated as a river crossing and is reached through Davenport over the lines of the Chicago, Milwaukee & St. Paul and the Chicago, Rock Island & Pacific; furthermore, over the line of the Chicago, Rock Island & Pacific, Muscatine is intermediate to Burlington and eastern territory. The west bank upper and lower group cities will hereinafter be referred to, respectively, as the upper group cities and the lower group cities. St. Louis will be used as typical of the west bank lower group cities, and the east bank cities in both groups will be specifically mentioned where necessary.

With the exception of the Wabash, the Toledo, Peoria & Western, and the Illinois Central, the carriers¹ that serve the central freight association territory do not reach, over their own rails, either the upper or the lower group cities. The Wabash, having its eastern terminal at Buffalo, reaches Keokuk, Hannibal, and St. Louis. The

¹ Some of the lines, including the Illinois Central, reach St. Louis over the rails of the Terminal Railroad Association of St. Louis, which they own in part. *United States v. Terminal R. Asso.*, 224 U. S., 383.

Toledo, Peoria & Western, owned jointly by the Pennsylvania and the Chicago, Burlington & Quincy (each owning 49.3 per cent of the capital stock), reaches two of the upper group cities, namely, Burlington and Keokuk, but does not reach any of the lower group cities. Of the upper group cities the Illinois Central, with its eastern terminal at Indianapolis, reaches Dubuque, but does not reach any of the lower group cities. The distance from Indianapolis to Dubuque over the line of the Illinois Central, however, is 556 miles, as compared with the short-line distance of 355 miles over the Chicago, Indianapolis & Louisville and the Chicago Great Western. All other upper and lower group cities are reached by the carriers which serve the territory west of Chicago. The so-called eastern system lines, serving the territory east of the Indiana-Illinois state line, such as the New York Central, the Pennsylvania, and the Baltimore & Ohio, reach East St. Louis through their subsidiary lines, which are, respectively, the Cleveland, Cincinnati, Chicago & St. Louis, the Pittsburgh, Cincinnati, Chicago & St. Louis, and the Baltimore & Ohio Southwestern. The Pennsylvania Company owns the Vandalia, which also reaches East St. Louis. The control of these subsidiaries by their parent companies is through stock ownership, the extent of which need not here be shown in detail. Traffic from the central freight association territory, which reaches East St. Louis over the rails of the eastern system lines and their subsidiaries, is transferred from that point to St. Louis either by the Terminal Railroad Association of St. Louis or by wagon.

From the foregoing it will be observed that less-than-carload traffic moving between the central freight association territory and the upper group cities requires a break and transfer between the eastern and western carriers either at Chicago, Peoria, or other junctions, except, however, that portion of the traffic which may be handled to Burlington and Keokuk over either the Wabash or the Toledo, Peoria & Western. There is no showing of record that traffic moves to Dubuque from Indianapolis over the indirect route of the Illinois Central. Traffic between the central freight association territory and the lower group cities is transferred between the eastern and western lines at East St. Louis, or at other junctions through which it may move, such as Chicago and Peoria. The bulk of the traffic from central freight association territory, however, moves direct to East St. Louis without passing through Chicago, Peoria, or other junctions between the eastern and western lines.

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THE RATE ADJUSTMENT.

A line drawn from Chicago through Joliet and Streator to Peoria, thence over the Toledo, Peoria & Western to East Burlington, and thence via the east bank of the Mississippi River to its junction with the Ohio River forms the western boundary of the central freight association territory. And although the cities on the west bank in both the upper and lower groups do not lie within this boundary, the eastern system lines nevertheless treat those points, for the purposes of rate making, as if they were in the central freight association territory. The rate adjustment to all the west bank cities is therefore controlled to some extent by the eastern system lines, and the carriers that serve only the territory west of Chicago join them in maintaining joint rates to the upper group cities. These joint rates are applicable through Chicago and the northern part of the state of Illinois, which lies outside the central freight association territory. Joint rates are also maintained through Peoria. It is thus apparent that in the territory west of Chicago there is an overlapping of the eastern and western carriers, which is responsible to some extent for dividing the river cities into two rate groups.

The Mississippi River Case, supra, was the outgrowth of a complaint filed in the summer of 1911 by the state of Iowa, through its railroad commission, in behalf of the manufacturers and jobbers of the upper group cities, alleging discrimination against them in favor of the lower group cities. Briefly stated, the prayer was for a parity of rates between the territory east of the Indiana-Illinois state line and all of the west bank river cities, from Dubuque on the north to St. Louis on the south. In that proceeding the rate adjustments to and from the trunk line territory and to and from the central freight association territory were separately considered. With respect to the former the Commission stated that there were strong reasons for fixing the rates to and from all the river cities upon an equal basis, but the Commission did not then require such an adjustment because of the serious results that the change would have upon the revenues of the carriers.

Unless otherwise explained all rates will be expressed in cents per 100 pounds, and the first-class rate will be used as typical. Prior to April 1, 1914, the first-class rate from New York City to the upper group cities was 97 cents, and to St. Louis 88 cents, a spread of 9 cents. On that date, pursuant to the order of the Commission in the *Mississippi River Case, supra*, the first-class rate to the upper group cities was made 90 cents, the spread accordingly being reduced to 2 cents. Correspondingly the spread between the second-class rate was fixed at 2 cents and between the remaining four classes 1 cent.

On December 29 of the same year, however, the Commission, apparently of the opinion that the advances authorized in *The Five Per Cent Case*, 32 I. C. C., 325, had overcome the reasons which prompted it to approve a spread between the lower and the upper group cities, entered an order requiring that all those cities, in their relation to the trunk line territory, be put upon a rate parity, thus making a straight rate line of the river with respect to trunk line traffic.

No such change was made in the adjustment to and from the central freight association territory. The spread in the rates existing between the upper group cities and St. Louis prior to April 1, 1914, is illustrated in the following table:

Prior to April 1, 1914, from—	Distances.		First-class rate.		Spread in favor of St. Louis.	
	To St. Louis.	Average to upper group cities.	To St. Louis.	To upper group cities.	In distance.	In rate.
	Miles.	Miles.	Cents.	Cents.	Miles.	Cents.
Indianapolis, Ind.	240	324	38.0	52.0	84	14.0
Cincinnati, Ohio.	341	442	41.0	55.0	101	14.0
Fort Wayne, Ind.	342	338	43.0	52.0	14	9.0
Columbus, Ohio.	428	477	46.0	59.0	49	13.0
Toledo, Ohio.	437	433	46.0	55.0	14	9.0
Grand Rapids, Mich.	463	368	46.0	55.0	14	9.0
Lansing, Mich.	478	409	46.0	55.0	169	9.0
Cleveland, Ohio.	548	532	52.5	65.0	116	12.5
Baginaw, Mich.	563	490	46.0	55.0	194	9.0
Pittsburgh, Pa.	621	647	56.5	69.0	26	13.5

¹ Distance favors the upper group cities.

Although the defendants do not concede them to be relevant or material to the issues in this case, the complainants made comparisons of the rate relation existing prior to April 1, 1914, between the upper and the lower group cities, by using (a) the average distance to the cities comprising each group, and (b) the distance to the nearest city in each group. These comparisons follow:

(a) Prior to April 1, 1914, from—	Average distance.		First-class rate.		Spread in favor of lower group cities.	
	To lower group cities.	Average to upper group cities.	To lower group cities.	To upper group cities.	In distance.	In rate.
	Miles.	Miles.	Cents.	Cents.	Miles.	Cents.
Indianapolis, Ind.	280	324	38.0	52.0	44	14.0
Cincinnati, Ohio.	368	432	41.0	55.0	34	14.0
Fort Wayne, Ind.	369	336	43.0	52.0	139	9.0
Columbus, Ohio.	476	475	46.0	59.0	-----	13.0
Toledo, Ohio.	493	428	46.0	55.0	135	9.0
Grand Rapids, Mich.	442	367	46.0	55.0	175	9.0
Lansing, Mich.	485	407	46.0	55.0	178	9.0
Cleveland, Ohio.	593	533	52.5	65.0	160	12.5
Baginaw, Mich.	556	481	46.0	55.0	176	9.0
Pittsburgh, Pa.	653	656	56.5	69.0	3	12.5

¹ Distance favors the upper group cities.

(b) Prior to April 1 1914, from—	Distance.		First-class rate.		Spread in favor of St. Louis.	
	To St. Louis.	To Clinton.	To St. Louis.	To Clinton.	In distance.	In rate.
	Miles.	Miles.	Cents.	Cents.	Miles.	Cents.
Indianapolis, Ind.	240	322	38.0	52.0	82	14.0
Cincinnati, Ohio.	339	423	41.0	55.0	84	14.0
Fort Wayne, Ind.	341	290	43.0	52.0	151	9.0
Columbus, Ohio.	422	453	45.0	59.0	131	12.0
Toledo, Ohio.	437	383	46.0	55.0	155	9.0
Grand Rapids, Mich.	440	316	46.0	55.0	124	9.0
Lansing, Mich.	478	389	46.0	55.0	119	9.0
Cleveland, Ohio.	537	477	52.5	65.0	100	12.5
Baginaw, Mich.	554	431	46.0	55.0	123	9.0
Pittsburgh, Pa.	613	606	55.5	60.0	17	12.5

¹ Distance favors the upper group cities.

In its supplemental report in *The Mississippi River Case*, 29 I. C. C., 530; 533, the Commission found (a) that the rates between the upper group cities on the one hand and Pittsburgh, Buffalo, and points taking the same rates on the other hand, should be 66 per cent of the New York rates to the upper group cities; (b) that a spread between the upper group cities and St. Louis on the first three classes of 3, 2½, and 2 cents, respectively, and on the remaining three classes of 1½ cents should be established and maintained; (c) that between points west of Pittsburgh and the upper group cities, for distances of more than 500 miles, rates should be established on basis of the same spread between St. Louis and the upper group cities that had been found proper from Pittsburgh and Buffalo; (d) that for distances of 500 miles and under, where the average distances between central freight association points and the upper group cities were the same or less than the distances to St. Louis, the same spread between St. Louis and the upper group cities should be maintained; and (e) that when the average distances to the upper group cities exceeded the distances to St. Louis the spread between the upper group cities on the first three classes of 3, 2½, and 2 cents, respectively, and on the remaining three classes of 1½ cents should be increased not to exceed 1 cent on the first two classes and one-half cent on the remaining four classes for each 25 miles or fraction thereof that the distances to the upper group cities exceeded the distances to St. Louis.

The rates thus prescribed were established April 1, 1914, and were advanced, effective October 26, 1914, under the order of the Commission in *The Five Per Cent Case*, *supra*, not by 5 per cent, but by the amount necessary to preserve the spread between St. Louis and the upper group cities. This adjustment now prevails and is reflected in the following comparative table, which shows the distances, rates,

and revenue yield per ton-mile to both the upper group cities and St. Louis. There are some slight differences between the eastbound and westbound rates, but as a whole the latter are representative.

Since October 26, 1914, westward from—	Distances.			First-class rate.		Revenue per ton-mile.		Spread in favor of St. Louis, first class.
	To St. Louis.	To average upper city.	Difference.	To St. Louis.	To upper cities.	To St. Louis.	To upper cities.	
	Miles.	Miles.	Miles.	Cents.	Cents.	Mills.	Mills.	Cents.
Terre Haute, Ind.	168	297	129	34.1	43.6	40.60	29.36	9.5
La Fayette, Ind.	233	267	34	39.9	44.9	34.26	33.03	5.0
Indianapolis, Ind.	240	324	84	39.9	47.9	33.26	29.56	8.0
Cincinnati, Ohio.	341	442	101	43.1	51.1	25.28	23.12	8.0
Fort Wayne, Ind.	342	338	4	45.2	48.2	26.43	28.52	3.0
Dayton, Ohio.	350	421	71	45.2	51.2	25.83	24.32	6.0
Columbus, Ohio.	428	477	49	48.3	53.3	22.57	22.35	5.0
Toledo, Ohio.	437	433	4	48.3	51.3	22.10	23.09	3.0
Grand Rapids, Mich.	462	398	194	48.3	51.3	20.91	27.88	3.0
Lansing, Mich.	478	408	169	48.3	51.3	20.21	25.08	3.0
Detroit, Mich.	498	467	121	48.3	51.3	19.79	21.97	3.0
Cleveland, Ohio.	548	532	16	55.3	58.3	20.20	21.92	3.0
Saginaw, Mich.	593	499	194	48.3	51.3	16.30	20.56	3.0
Pittsburgh, Pa.	621	647	26	59.3	62.3	19.10	19.25	3.0
Buffalo, N. Y.	731	720	11	59.3	62.3	16.22	17.30	3.0

¹ Distance favors the upper group cities.

Here, again, although the defendants do not concede them to be relevant or material to the issues in this case, the complainants supplement the above showing by rate comparisons they have made between the upper and lower group cities by using (a) the average distance to the cities comprising each group and (b) the distance to the nearest city in each group. These comparisons follow:

(a) Since October 26, 1914, westward from—	Average distance.			First class.		Revenue per ton-mile.	
	To lower group cities.	To upper group cities.	Difference.	To lower group cities.	To upper group cities.	Average lower group cities.	Average upper group cities.
	Miles.	Miles.	Miles.	Cents.	Cents.	Mills.	Mills.
Buffalo, N. Y.	730	710	140	59.3	62.3	15.63	17.55
Cincinnati, Ohio.	398	432	34	43.9	51.1	22.06	23.66
Cleveland, Ohio.	593	558	160	55.3	58.3	18.65	21.88
Columbus, Ohio.	475	475	0	48.3	53.3	20.34	22.44
Dayton, Ohio.	398	424	28	45.2	51.2	22.83	24.15
Detroit, Mich.	512	458	164	48.3	51.3	18.87	23.40
Fort Wayne, Ind.	360	336	123	45.2	48.2	24.50	23.60
Grand Rapids, Mich.	442	367	175	48.3	51.3	21.86	27.96
Indianapolis, Ind.	280	324	44	43.0	47.9	30.71	29.57
La Fayette, Ind.	252	268	16	39.9	44.9	31.67	33.51
Lansing, Mich.	485	407	178	48.3	51.3	19.92	26.23
Pittsburgh, Pa.	653	656	3	59.3	62.3	18.16	18.91
Saginaw, Mich.	556	481	175	48.3	51.3	17.37	21.29
Terre Haute, Ind.	227	280	62	42.1	43.6	37.09	30.17
Toledo, Ohio.	463	428	135	48.3	51.3	20.86	23.97

¹ Distance from the upper group cities.

² From Cincinnati, Indianapolis, and Terre Haute the rate varies for the different crossings, therefore an average was used. Average of first class to the four lower crossings: Cincinnati to St. Louis, 48.1; Louisiana, Quincy, and Hannibal, 44.1; P. C. C. & St. L. Ry., I. C. C. P500. Indianapolis to St. Louis, 39.9; to Quincy, Hannibal, and Louisiana, 44.1; P. C. C. & St. L., I. C. C. 600. Terre Haute to St. Louis, 34.1; Louisiana, 46.2; Hannibal and Quincy, 44.1; C. C. & St. L. 301-C, I. C. C. 6452, Vandalia Tr. 16-D, I. C. C. 2663.

(b) Since October 26, 1914, westward from—	Distances.			First class.		Revenue per ton-mile.	
	To St. Louis.	To Clinton.	Difference.	To St. Louis.	To upper group cities.	To St. Louis.	To Clinton.
	Miles.	Miles.	Miles.	Cents.	Cents.	Mills.	Mills.
Buffalo, N. Y.....	719	661	188	59.3	62.3	16.50	18.85
Cincinnati, Ohio.....	339	423	84	43.1	51.1	25.43	24.16
Cleveland, Ohio.....	587	477	100	55.3	53.3	20.90	24.44
Columbus, Ohio.....	423	452	31	45.3	53.3	23.59	23.53
Dayton, Ohio.....	350	403	53	45.2	51.2	25.53	25.41
Detroit, Mich.....	488	410	178	48.3	51.3	19.30	25.02
Fort Wayne, Ind.....	341	280	161	45.2	48.2	26.51	25.24
Grand Rapids, Mich.....	440	316	124	48.3	51.3	21.35	23.47
Indianapolis, Ind.....	240	322	82	39.9	47.9	33.25	29.75
La Fayette, Ind.....	233	258	25	39.9	44.9	34.25	34.31
Lansing, Mich.....	478	368	110	48.3	51.3	20.21	26.58
Pittsburgh, Pa.....	613	606	7	59.3	62.3	19.35	20.56
Saginaw, Mich.....	554	431	123	48.3	51.3	17.44	23.31
Terre Haute, Ind.....	168	283	125	34.1	43.6	40.60	29.76
Toledo, Ohio.....	487	382	165	48.3	51.3	22.11	26.86

¹ Distance favors Clinton.

The rates apply to both the east and west bank cities. In all cases except Pittsburgh it will be observed that where the distances to the upper group cities are greater than to St. Louis the revenue yield per ton-mile is less, and where the distances are less the revenue yield is greater. In other words, there is here in operation the generally accepted theory that with increased distance the ton-mile revenue should grow less. Using the lower group cities as a basis, the complainants show, by map illustration filed of record, that although from all points named in the foregoing table the rates to the lower group cities are less than to the upper group cities, the distances are nevertheless greater, as an average, to the lower group cities than to the upper group cities from the points north of a line drawn from Attica, Ind., through La Fayette, Muncie, and Richmond, and thence through Dayton, Columbus, and Zanesville, Ohio, to Pittsburgh, Pa. The defendants, however, in the same form, show that when St. Louis alone is used as a basis, the boundary line north of which the distances to the upper group cities are less than to St. Louis begins at Morocco, Ind., approximately 50 miles north of Attica, and runs easterly almost in a direct line through Decatur, Ind., and Lima, Ohio, to Latimer, a point just west of the Pennsylvania-Ohio state line. Between the two lines thus drawn the spread ranges between 50 and 60 miles.

THE ISSUE AND THE COMPLAINANT'S EVIDENCE

The contention of complainants is that while the situation which was considered in *The Mississippi River Case*, *supra*, has been partially remedied by equalizing the rates between trunk line territory and the river cities in both groups, there still exists unjust dis-

crimination in favor of St. Louis, and the other lower group cities, against the upper group cities, in the rates applicable to and from the central freight association territory. In substance it is alleged that where the distances from points in that territory to the upper group cities are no greater than to the lower group cities there should be no difference in the rates; and although expressing the view that where distance favors the upper group cities the rates to and from those cities should be on a lower level than the St. Louis scale, the complainants nevertheless do not urge such an adjustment; nor do they attack the intrinsic reasonableness of the rates except to the extent that such rates exceed the rates contemporaneously maintained to and from St. Louis for equal or less distances. The issue raised therefore bears only upon the rate relation that is said unduly to favor St. Louis to the undue prejudice and disadvantage of the upper group cities. In urging their contentions the complainants state that, "the rates asked for in this case are those applicable to St. Louis, whether they remain as they are to-day or are made higher or lower than they are to-day."

There has been no material change in the commercial situation of the manufacturers and jobbers in the upper group cities since the complaint of *The Mississippi River Case*, *supra*, was filed. They contend that they still compete with the St. Louis, Quincy, Hannibal, and Louisiana manufacturers and jobbers in the territory east and west of the Mississippi River, and, according to the evidence of record, they are required to absorb in their selling prices the rate differences over St. Louis. In rebuttal the carriers contend that the evidence introduced by them shows that the combined rates through the upper west bank crossings to consuming territory in Iowa are generally lower than through St. Louis to the same territory, and that to destination points in Missouri on the line of the Chicago, Burlington & Quincy the combined rates are generally lower through Keokuk and Burlington than through St. Louis. Complainants contend that where the combined distances are similar the rate advantage rests almost invariably with St. Louis.

Many of the witnesses who testified in the former case reaffirmed their testimony in this proceeding, both orally and by introducing excerpts from the record. Aside from showing that all the manufacturers and jobbers in the river cities buy and sell in competition with each other, the complainants developed upon the record six principal points: (a) That from trunk line territory the rates, all-rail and ocean-rail, are the same to the upper group cities as to the lower group cities; (b) that the eastbound ocean-and-rail rates from the upper group cities are higher than from the lower group cities,

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and are under attack in another proceeding before the Commission; (c) that the cities on the eastern boundary of central freight association territory from Buffalo, N. Y., on the north to Wheeling, W. Va., on the south are kept on a rate parity—that is to say, Buffalo pays no higher rates than Wheeling in reaching St. Louis and the upper group cities; (d) that St. Louis and the upper group cities are on a parity in reaching the Missouri River cities and territory beyond; (e) that a large number of the important cities in the central freight association territory are nearer to the upper group cities than to St. Louis; (f) and that in Illinois the individual carriers that serve only the upper group cities have a revenue yield practically the same as, and a traffic density less than, the lines operating east of Chicago in the central freight association territory (as shown by the Interstate Commerce Commission statistical reports for group 3 in the year 1910, the latest year for which such figures are reported), and a revenue yield and traffic density higher than the Illinois density of traffic and revenue yield of the individual lines that pass through the southern section of that state in reaching St. Louis.

In support of their contention that no special reasons appear for maintaining at the upper group cities, in their relation to the central freight association territory, a higher level of rates than is contemporaneously maintained at St. Louis, the complainants introduced in evidence many comprehensive rate comparisons and maps showing in detail the relative rate differences in favor of St. Louis and against the upper group cities in reaching the territory west of the Mississippi River. Without discussing in detail these differences, it is sufficient to say that they are, comparing class with class, largely, if not altogether, the measure of the spread in the rates between the upper group cities and the lower group cities.

THE DEFENDANT CARRIERS' EVIDENCE.

The defendant carriers contend, while the complainants deny, that a difference in transportation conditions justifies the higher level of rates between the central freight association territory and the upper group cities. They point out that in reaching the upper group cities a two-line service is required east of the river with an expensive break and transfer at Chicago between the eastern and the western carriers. On the other hand, the complainants contend, while the defendants deny, (a) that the two-line service from Chicago is offset by the larger amount of tonnage hauled in long trains, and in such volume and with such regularity as to permit of economy and efficiency in management; (b) that the only witness for the defendants testifying as to the cost of the transfer at Chicago admitted on cross-examination that such cost is no greater at Chicago than at

other transfer points generally throughout the country; (c) that the defendants' witness further admitted that the percentage system of rates in official classification territory applies over two-line hauls as well as over single-line hauls; and (d) that there is also an expensive break and transfer at East St. Louis before the traffic reaches St. Louis proper.

The carriers, however, contend that in the absence of competitive influences, the logical and normal method of constructing rates to the upper group cities would be upon basis of the full local rates east and west of Chicago. That basis, they assert, has not been observed because some of the western lines which serve St. Louis and Peoria through Chicago were compelled to meet the rates maintained by the eastern system lines for their direct service to those points, and the result was to depress the level of rates that the western carriers, in competition with the eastern system lines, could maintain to the upper group cities. Explained in another way, the defendant carriers insist that the joint rates now maintained are lower than they should be for a two-line haul between the central freight association territory and the upper group cities, which are in a territory that is generally rated higher and of less traffic density than the central freight association territory. On cross-examination, however, the assistant freight traffic manager of the New York Central lines admitted that traffic destined to St. Louis is hauled approximately the same distance, in the same higher rated territory, as the traffic that moves through Chicago to the upper group cities.

The defendants show the relation between the joint rates and the combination of local rates through Chicago, comparing the result with the relation maintained in other adjustments between the joint rates and the combination of local rates.

First-class rate to Clinton from—	Joint through rate.	Combina- tion of locals through Chicago.	Difference.	Percentage relation of joint rates to combina- tion rates.
1. Buffalo, N. Y.....	62.3	86.7	24.4	72
2. Pittsburgh, Pa.....	62.3	86.7	24.4	72
3. Youngstown, Ohio.....	60.3	84.7	24.4	71
4. Cleveland, Ohio.....	58.3	82.7	24.4	70
5. Toledo, Ohio.....	51.3	78.3	27.0	66
6. Detroit, Mich.....	51.3	78.3	27.0	66
7. South Bend, Ind.....	48.2	62.5	14.3	77
8. Columbus, Ohio.....	53.3	82.7	29.4	64
9. Cincinnati, Ohio.....	51.1	81.4	30.3	63
10. Indianapolis, Ind.....	47.9	72.5	24.6	67
11. Fort Wayne, Ind.....	48.2	60.3	21.1	70

(From Cleveland Exhibit No. 2.)

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Comparative percentage relations of joint rates to combinations of local rates, first class being used as typical.

From—	To—	Per cent.	Authority.
Chicago, Ill.....	Denver, Colo.....	92	Kindel v. N. Y., N. H. & H. R. R., 15 I. C. C., 555.
Denver, Colo.....	Chicago, Ill.....	92	Colorado Mfrs. Asso. v. A., T. & S. F. Ry. Co., 28 I. C. C., 82.
St. Paul, Minn.....	Colorado points.....	92	Colorado Class Rates, 37 I. C. C., 208.
New York, N. Y.....	Albert Lea, Minn.....	96	Business Men's League of Albert Lea v. B. & O. R. R. Co., 24 I. C. C., 125.
Mississippi River.....	Topeka, Kans.....	89	State of Kansas v. A., T. & S. F. Ry. Co., 27 I. C. C., 673.
Do.....	Wichita and Hutchinson, Kans.....	92	
Do.....	Dodge City, Kans.....	96	
New York, N. Y.....	St. Paul, Minn.....	85	
Iowa state basis of joint class rates.....		80	Maximum basis allowed under state regulation.
Minnesota state basis of joint class rates.....		85	
Illinois state basis of joint class rates.....		100	
Nebraska state basis of joint class rates.....		100	
South Dakota state basis of joint class rates.....		80	
Wisconsin state basis of joint class rates.....		100	

(From Cleveland Exhibit No. 2.)

At page 18 of the first of the foregoing exhibits, comparisons are made between the combination of local rates voluntarily maintained by the carriers in official classification territory and the through rates maintained by the same carriers. These comparisons show the following result:

	Classes.				
	1	2	3	4	
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
New York to Albany.....	27.3	22.1	17.9	13.7	11.6
Albany to Chicago.....	63.0	54.6	42.0	29.4	25.2
Through.....	90.3	76.7	59.9	43.1	36.8
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	87.3	89.05	87.65	85.28	85.6
New York to Rochester.....	36.8	31.5	26.3	18.9	15.8
Rochester to Chicago.....	55.2	47.8	36.8	25.3	22.1
Through.....	92.0	79.3	63.1	44.7	37.9
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	85.65	86.12	83.2	82.32	83.1
New York to Buffalo.....	41.3	35.0	29.5	20.1	16.9
Buffalo to Chicago.....	47.3	41.0	31.5	22.1	18.9
Through.....	88.6	76.0	61.0	42.2	35.8
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	88.9	89.86	86.06	87.2	87.4
New York to Cleveland.....	55.9	48.5	37.3	26.1	22.4
Cleveland to Chicago.....	43.3	37.0	27.5	19.1	15.9
Through.....	99.2	86.5	64.8	45.2	38.3
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	79.4	79.88	81.01	81.41	82.24

	Classes.				
	1	2	3	4	5
New York to Columbus.....	<i>Cents.</i> 61.3	<i>Cents.</i> 53.3	<i>Cents.</i> 41.0	<i>Cents.</i> 28.7	<i>Cents.</i> 24.6
Columbus to Chicago.....	43.3	37.0	27.5	19.1	15.9
Through.....	104.8	90.3	68.5	47.8	40.5
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	75.1	75.68	76.64	76.88	77.77
New York to Detroit.....	61.5	53.3	41.0	28.7	24.6
Detroit to Chicago.....	38.9	33.6	24.74	16.8	13.7
Through.....	100.4	86.9	65.7	45.5	36.3
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rate to the combination rates.....	78.5	78.59	79.9	80.87	82.24
New York to Indianapolis.....	73.3	63.5	48.8	34.2	29.3
Indianapolis to Chicago.....	33.1	28.4	22.6	14.7	12.1
Through.....	106.4	91.9	71.4	48.9	41.4
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	74.0	74.32	73.52	75.25	76.06
New York to Fort Wayne.....	70.9	61.5	47.3	33.1	28.4
Fort Wayne to Chicago.....	29.9	26.3	21.0	14.2	11.0
Through.....	100.8	87.8	68.3	47.3	39.4
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	78.1	77.79	76.86	77.8	79.06
New York to Cincinnati.....	68.6	59.4	45.7	32.0	27.4
Cincinnati to Chicago.....	42.0	35.7	26.3	17.9	15.8
Through.....	110.6	95.1	72.0	49.9	43.2
New York to Chicago.....	78.8	68.3	52.5	36.8	31.5
Percentage relation of the through rates to the combination rates.....	71.1	71.81	72.91	73.76	75.9

The carriers voluntarily provide joint through rates lower than the combination of locals on the large bulk of the joint traffic in Illinois, and the same is substantially true in Wisconsin, except that the amount of the joint traffic is less in Wisconsin than in Illinois. The defendants point out, however, that there are important exceptions in both Wisconsin and Illinois, which were generally discussed on briefs and in argument.

As evidence that the territory between Chicago and the upper group cities is rated higher than the central freight association territory, the defendants introduced a comparison of the local rates westbound from Chicago with the local rates eastbound from that point for similar distances. It disclosed that the rates westbound were higher by approximately 25 per cent, and if that percentage of difference was recognized in constructing the joint rates to the upper group cities those rates would be upon a higher level than they are at present. The complainants, however, here again point out that the

defendants' witness upon cross-examination admitted that traffic destined to St. Louis is hauled approximately the same distance, in the same higher rated territory, as the traffic that moves through Chicago to the upper group cities.

Other rate comparisons were introduced by the defendants in the form of exhibits, showing that in reaching the territory west of the Mississippi River the upper group cities are not in all cases at a disadvantage over St. Louis. For example, to most of the interior Iowa cities and many cities in northern Missouri, where the distances favor the upper group cities, they have a rate advantage over St. Louis. It also is shown by the defendants that, comparing the rates class with class, the upper group cities have the advantage over Chicago in reaching points in the state of Colorado, on the first three classes; but as a jobbing proposition, using carload rates in and class rates out, this is not true in respect of the balance of the classes in the official and western classifications. On this point the complainants show (a) that the lower group cities have the advantage over the upper group cities in reaching points in the state of Colorado on traffic originating in the central freight association territory; (b) that there is described upon this record, and also upon the record in *The Mississippi River Case, supra*, what the complainants regard as a natural territory surrounding Chicago and St. Louis, in which those cities, by reason of their location, have an advantage over other cities, just as the upper crossings cities have an advantage in reaching points in Iowa; and (c) that St. Louis has the advantage over Davenport, a typical upper river crossing, in reference to all of the territory west of the Mississippi River outside of a portion of Iowa. With the exception of the first of these three contentions of the complainants, the defendants are unwilling to accede, but instead of specifically outlining their exceptions reserved them for discussion on briefs and in argument.

In reference to the transfer between the eastern and the western carriers at Chicago it appears from the evidence that, while a large part of the less-than-carload traffic is loaded by the eastern lines at points east of Chicago into cars that break bulk only after delivery to the western lines at Chicago, the western lines nevertheless rehandle all of such freight through their Chicago transfer stations. The cost of the station service to the Chicago & North Western at its Wood street, Fortieth street, and Sixteenth street stations, according to the record, is approximately 74 cents per ton, or 3.7 cents per 100 pounds. In addition there is the cost of the switching service by both the eastern and the western lines to and from the train and classification yards. The cost of this latter service to all of the carriers was not definitely developed, although it was approximated

at \$2.42 per car by the Chicago & North Western. A small part of the less-than-carload traffic is handled at Chicago between the eastern and the western lines either by dray or tunnel, and where this method is used the cost is between 3 and 4 cents per 100 pounds. Transfer is also made at Peoria between the eastern and western lines and, with the exception of the tunnel service, the method employed is substantially the same as at Chicago. No cost figures bearing upon the transfer service at Peoria were presented. In developing the facts with reference to the transfer service at Chicago and Peoria, and its cost, the defendant carriers insist that the expense of the two-line service through Chicago in reaching the upper group cities is greater than the expense to the eastern system lines in reaching St. Louis. This the complainants deny, and show (a) that the cost figures introduced in evidence have reference only to the traffic handled at Chicago by the Chicago & North Western Railway; (b) that the defendants' only witness admitted on cross-examination that the cost of transfer at Chicago was no greater than at other points where transfers are generally made; (c) that a similar transfer service, acknowledged by the defendants, occurs at East St. Louis, where less-than-carload traffic breaks bulk and is handled thence to St. Louis either by trap car or by wagon; (d) that this transfer service, according to the testimony of a witness for the defendants, involves three elements of cost, namely, station handling at East St. Louis, carting over the bridge to St. Louis, and station handling in St. Louis, except when delivery is constructively made in St. Louis without rehandling at the end of the bridge on the west bank of the river; (e) that the tariffs on file with the Commission show that the defendants allow the transfer companies, for cartage service between East St. Louis and St. Louis, on traffic from central freight association territory, amounts ranging from 6 cents to 25 cents per 100 pounds on certain specified commodities, 5 cents per 100 pounds on traffic generally, and 2 cents per 100 pounds on traffic constructively delivered in St. Louis at the end of the bridge on the west bank of the river; (f) that these allowances to the transfer companies for cartage service are in addition to the cost of station handling by the carriers in their freight depots at East St. Louis; (g) that approximately 80 per cent of the total less-than-carload traffic moving between central freight association territory and St. Louis is handled between East St. Louis and St. Louis by the transfer companies, and through the so-called "off-track" stations in St. Louis; and (h) that a small amount in addition, perhaps 5 per cent of the total, instead of being handled through the off-track stations in St. Louis, is constructively delivered or received at the end of the bridge on

the west bank of the river. The defendants did not concede the correctness of these contentions by the complainant and reserved the right to check the statements made and to deal with them on brief and in argument, which was done.

In reaching the upper group cities traffic from the central freight association territory must cross the river over railroad bridges, but the expense of maintaining and operating the bridges at the upper crossings is not comparable with the allowances made by the defendant carriers for cartage between East St. Louis and St. Louis. In other words, the traffic for the upper group cities breaks bulk and is rehandled either at Chicago, Peoria, or other junctions, and moves across the bridges at the upper crossings without further rehandling.

According to the testimony of the defendants, less-than-carload traffic moving from the central freight association territory to the upper group cities is a small proportion of the total, the record showing that from 70 to 80 per cent of the total traffic moves in carload quantities. It is not shown by evidence of record that carload traffic through Chicago encounters any additional cost over and above the cost encountered when the traffic moves through other junctions.

OTHER EVIDENCE.

One witness testified that certain eastern competitors of the Chicago jobbers are able in many instances to reach the upper group cities at rates less than the sum of the locals through Chicago, and it was suggested that if Chicago's disadvantage is to be enlarged by a decrease in the rates to the upper group cities the Chicago shippers will probably complain. This situation is illustrated by several exhibits comparing the combination rates over Chicago with the joint rates to the upper group cities. Among these comparisons are the rates from Indianapolis and Chicago to Dubuque and from Toledo and Chicago to St. Louis. In 52 instances it appears that Indianapolis has a slight advantage over Chicago in reaching Dubuque, and in 57 instances that Toledo has an advantage over Chicago in reaching St. Louis. The complainants contend that their rebuttal evidence shows (a) that the comparisons made do not show rate differences similar to those complained of by the upper group cities; (b) that no comparisons were made of the aggregate rates in and out of the eastern jobbing cities, on traffic originating east thereof and reshipped from such cities to the upper group cities, with the aggregate of the local rates on the same traffic when reshipped through Chicago; (c) that comparisons are made only between the aggregate of the local rates from the eastern jobbing cities through Chicago, and the through rates from such jobbing cities to the upper group cities, showing that

the latter are invariably lower than the Chicago combination; (*d*) that Exhibit No. 3, introduced by the witness, is an attempt to compare the rates to Dubuque from Indianapolis and Chicago on 63 articles which are excepted upon a percentage basis from the official classification ratings; (*e*) that 14 of the articles upon which the rates were thus compared are not subject to the classification exceptions when destined to the upper crossing cities; (*f*) that, apart from the 14 articles just mentioned, 19 others used in the comparisons take commodity rates from Chicago to the upper group cities; (*g*) that 5 of the 19 articles are shown to take lower rates from Chicago to Dubuque than from Indianapolis to Dubuque; (*h*) that out of the total of 63 articles selected 39 of them take lower rates from Chicago than from Indianapolis and 24 take lower rates from Indianapolis than from Chicago; (*i*) that the 24 articles last mentioned seldom move in carload quantities to the territory involved; (*j*) that in the territory selected by the witness as a basis for his comparisons there are other exceptions to the classification which have not been shown; (*k*) that of 43 of such omitted exceptions only 2 of the articles take rates from Indianapolis less than from Chicago, while 41 have lower rates from Chicago than Indianapolis; (*l*) that the witness's Exhibit No. 4 simply shows the reductions that have been made in the rates from central freight association territory to the upper group cities, and there is no issue in this proceeding in respect of such reductions.

ATTITUDE OF WISCONSIN CITIES.

For the purpose of stating their position with respect to this proceeding, an appearance was entered in behalf of the Madison Board of Commerce, the Beloit Business Men's Association, and other Wisconsin cities, which are now complaining to the Commission in Docket No. 8353¹ of unjust discrimination against them and an undue preference in favor of the upper group cities in the rates from the central freight association and the trunk line territories. In their judgment, the discrimination of which they complain does not arise out of any impropriety in the rates to Clinton and Dubuque as fixed by the Commission in previous cases, and they want it understood that they are not interested in seeing such discrimination corrected by increasing the rates to the upper group cities, nor in fact, do they object to a reduction in such rates to those cities as may now be too high.

¹ Reported as *The Wisconsin Rate Cases* in 44 I. C. C., 602.

HARLAN, *Commissioner*:

The foregoing statement of the case, prepared by the examiner before whom the hearing was had, was agreed to of record by the parties to the proceeding as an accurate review of the main facts disclosed by the evidence adduced. It was understood, however, that on the briefs and oral argument other facts and matters thought to be material to the issue might be fully discussed; and the parties in interest in the presentation of the case have emphasized the evidence introduced in support of their respective contentions. As all the salient facts in the case are thus before us, no further statement is required to enable us to consider and dispose of the issue.

No question as to the reasonableness *per se* of any rates in effect in the territory in question is involved upon the record. The matter for determination is the contention by the Iowa shippers that, on traffic to and from points in the central freight association territory east of the Indiana-Illinois state line, the upper group of cities in Iowa, on the west bank of the Mississippi River, should have the same rates that are exacted for equal or less distances to and from St. Louis. Such a demand, namely, for equal rates for equal distances in the same general territory, where the conditions of transportation appear to be substantially the same, leads at once to a consideration of the reasons why such an adjustment should not be maintained. In defense of the higher rates to the upper group cities the carriers assert that in reaching them the transportation conditions are less favorable than those encountered in reaching the lower group cities. In urging this defense the carriers refer to the two-line hauls to the upper group of cities through Chicago and the break and transfer between the eastern and western carriers at that point. These transportation conditions they contrast with what they characterize upon the record as one-line hauls by the eastern systems to St. Louis. The difference between the parties to the proceeding rests largely upon these conditions at the two great gateways on the traffic in question. The comparatively lower density on the western lines is urged as another point justifying the present rate relationship between the upper and lower group cities.

Substantially the same contentions were made in the *Mississippi River Case*, 28 I. C. C., 47, but the record there did not fully disclose the similarity of physical operations in reaching St. Louis as compared with the upper group cities. On the record here before us it is shown that the St. Louis rates apply over two-line hauls, and that the transfer of less-than-carload traffic at East St. Louis requires little if any less handling than the transfer at Chicago. Although the density of traffic on the western lines in Illinois may be somewhat less than the density on the lines in central freight association territory,

the measure of difference at present existing is not shown, nor is there any evidence tending to prove a substantial disparity.

A careful analysis of the evidence of record does not convince us that the dissimilarity of operating conditions is of such weight as to warrant higher rates in this territory for equal or less distances. Without reviewing the details, which stand out clearly in the foregoing statement of the case and have been amplified in a comprehensive manner on the briefs and on the oral arguments, we find and conclude upon the whole record that for the future from points in central freight association territory, west of the Pittsburgh-Buffalo line and east of the Indiana-Illinois state line, the local class rates to the west bank upper group cities should be (a) not greater than the local class rates contemporaneously maintained to St. Louis where the distances to the west bank upper group cities are equal to or less than the distances from the same points of origin to St. Louis; and (b) not more than 1 cent per 100 pounds on the first two classes and one-half cent on the remaining four classes in excess of the local class rates contemporaneously maintained to St. Louis for each 25 miles or fraction thereof that the distances to the upper group cities exceed the distances to St. Louis from the same points of origin.

In the *Mississippi River Case*, 29 I. C. C., 530, 532, and on the record here, it is shown that to St. Louis from Pittsburgh, Buffalo, and points grouped with them, the class rates are 64½ per cent of the class rates contemporaneously maintained from New York City to St. Louis. In their relation to the Pittsburgh-Buffalo group this record shows that the upper group cities, as hereinbefore defined, should be on the same basis as St. Louis; therefore we further find and conclude that from Pittsburgh, Buffalo, and points taking the same rates, to cities on the west bank of the Mississippi River from and including Dubuque on the north, to and including St. Louis on the south, the class rates for the future should not exceed 64½ per cent of the class rates contemporaneously maintained between New York City and St. Louis.

The basis herein found reasonable will apply both eastbound and westbound, and the carriers will be expected to adjust their commodity rates in conformity therewith.

An appropriate order will be entered.

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INTERIOR IOWA CASES.

No. 3464.¹

STATE OF IOWA ET AL.

v.

CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY
COMPANY ET AL.

No. 3465.

SAME

v.

NEW YORK CENTRAL & HUDSON RIVER RAILROAD
COMPANY ET AL.

Submitted May 2 1917. Decided July 7, 1917.

1. The Mississippi-Missouri River proportional class scale, whatever its measure may be, shall for the future be equitably prorated across the state of Iowa in constructing reasonable maximum proportional class rates between the west bank of the Mississippi River and interior Iowa cities on traffic originating at or destined to points in official classification territory east of the Indiana-Illinois state line.
2. Upon that basis reasonable maximum class rates are herein prescribed, and it is expected that the carriers will adjust their commodity rates in conformity therewith.

Clifford Thorne for Iowa State Board of Railroad Commissioners, and various intervening Iowa cities; *J. H. Henderson* for State of Iowa and others; *F. W. Lehmann* and *E. G. Wylie* for Greater Des Moines Committee; *G. O. Dawson* for Ottumwa Commercial Association; *R. O'Hara* for Swift & Company; *W. B. Martin* for upper Mississippi River cities, Dubuque to Keokuk, inclusive; *H. F. Sundberg* and *John Wunderlich* for Cedar Rapids Commercial Club; *E. H. Draper* for Western Grocer Company; *A. B. Combs* for Western Oil Jobbers Association; *Samuel MacKeehan Dague* for Fort Dodge Commercial Club and Fort Dodge Shippers Association.

C. C. Wright and *A. F. Cleveland* for Chicago & North Western Railway Company; *W. F. Dickinson* for Chicago, Rock Island & Pacific Railway Company and its receiver; *Kenneth F. Burgess* and

¹ This report also embraces complaints in subnumbers 1 to 8, inclusive, of Docket No. 3464.

L. C. Mahoney for Chicago, Burlington & Quincy Railroad Company; *C. A. Lahey* for Chicago, Milwaukee & St. Paul Railway Company.

SECOND SUPPLEMENTAL REPORT OF THE COMMISSION.

These cases reach back to the summer of 1910, when the manufacturers and jobbers in the interior Iowa cities, through their commercial organizations and state railroad commission, first complained of the rate inequalities which were said especially to favor their competitors located in the Iowa cities on the Mississippi River, in the Missouri River cities, and likewise those located at Chicago and St. Louis. At the same time the manufacturers and jobbers in the Iowa cities on the Mississippi River complained of similar inequalities in favor of their St. Louis competitors. The whole question centered sharply on the rate adjustment to and from the Mississippi River which, so far as the rates at issue in these cases are concerned, forms an uneven rate-basing and boundary line between the official and the western classification territories. For rate-making purposes the cities along the river bank between Dubuque on the north and St. Louis on the south are divided into two groups, generally known as the upper and the lower crossings. These crossings are rate-breaking points; that is to say, separate rates are published for the services east and west of the river, and it was with this combination of rates, as well as the separate factors, that the Commission had to deal in the above-mentioned complaints, which brought in issue the reasonableness of substantially all the rates then in effect between the territory east of the Indiana-Illinois state line and points in the state of Iowa.

The complaint of the manufacturers and jobbers in the Iowa cities on the Mississippi River was dealt with upon a separate record and in separate reports of the Commission, *The Mississippi River Case*, 28 I. C. C., 47, and 29 I. C. C., 580, and we are here concerned with that case only to the extent that the rates which were there in issue bear upon the adjustment to and from the interior Iowa cities.

In the *Interior Iowa Cities Case*, 28 I. C. C., 64, 74, the Commission found (a) that the through class rates were excessive and were made so by reason of the factors charged for the service west of the Mississippi River; (b) that the proportional rates between the territory east of the Indiana-Illinois state line and the Mississippi River were in harmony with the general system of rates east of the river, and there was no basis of record for condemning that factor of the through charges; (c) that when compared with the rates applicable between the eastern territory and the Mississippi and the Missouri rivers, respectively, there was an element of undue discrimination

in the through rates paid by many of the interior Iowa cities; and (d) that in numerous instances the rates then in force were in violation of the fourth section of the regulating statute. The defendant carriers were required to propose a system of proportional class rates for the service west of the Mississippi River on through interstate traffic moving in both directions, such rates to bear a reasonable relation to the 55-cent proportional class scale then and at present applicable between the Mississippi and Missouri rivers on through traffic, that scale previously having been fixed by the Commission in *Warnock Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 546. In respect of the proportional rates which were to be proposed by the defendant carriers, based upon a prorate of the 55-cent proportional class scale applicable between the rivers, the Commission said (p. 75):

Taking the Missouri River as a starting point, that proportional rate between the rivers, when graded back across the state in a proper and logical way, ought to produce a set of proportional rates which, used in connection with the proportional rates east of the river, will yield reasonable through charges to and from interior Iowa points.

In attempting to conform to these findings the defendant carriers proposed a proportional class scale, which was approved by the Commission in its supplemental report in the *Interior Iowa Cities Cases*, 29 I. C. C., 536. The complainants, however, later filed petitions for rehearing, alleging that the resulting rate adjustment did not give to them the relief sought in their original complaints, and which the Commission apparently intended they should have. Upon these allegations, broadened so as to include the changes which subsequently have occurred, the cases now come up for further consideration.

THE IOWA JOBBING CITIES, THE MISSISSIPPI RIVER CROSSINGS, AND HOW THEY ARE REACHED.

The principal manufacturing and jobbing cities in interior Iowa are Waterloo, Cedar Rapids, Marshalltown, Des Moines, Fort Dodge, Ottumwa, Mason City, and Oskaloosa. The upper west bank Mississippi River crossings in the state of Iowa, through which traffic generally moves to and from the interior Iowa cities, are Dubuque, Clinton, Davenport, Muscatine, Burlington, Fort Madison, and Keokuk. The east bank upper crossings in the state of Illinois are East Dubuque, Savanna, East Clinton, Rock Island, Keithsburg, East Burlington, East Fort Madison, and Hamilton. The lower crossings, through which traffic also may move to and from the interior Iowa cities, are, on the west bank, West Quincy, Hannibal, and St. Louis, in the state of Missouri, and, on the east bank, Quincy, East Hannibal, Alton, and East St. Louis, in the state of Illinois.¹

¹ Omits Louisiana, Missouri, and East Louisiana, Ill., which, in respect of the traffic under consideration, are said not to be of special importance.

The through rates to interior Iowa points over both the upper and lower crossings are based on the east bank and not on the west bank crossings. There is no railroad bridge or other means of handling traffic across the river at Muscatine. That point, however, has long been treated as a river crossing and is reached through Davenport over the lines of the Chicago, Milwaukee & St. Paul and the Chicago, Rock Island & Pacific.

With three exceptions the upper crossings are reached only by the carriers that serve the territory west of Chicago. The three excepted crossings are Burlington, Keokuk, and Dubuque. Burlington and Keokuk are reached by the Toledo, Peoria & Western, which is controlled jointly by the Pennsylvania Company and the Chicago, Burlington & Quincy, these carriers each owning 49.3 per cent of the stock. The Wabash Railroad, its eastern terminal being at Buffalo, reaches Keokuk and also two lower west bank crossings, namely, Hannibal and St. Louis. The Illinois Central¹ has its eastern terminal at Indianapolis, and of the upper west bank crossings reaches only Dubuque; it does not reach any of the lower west bank crossings. None of the lower west bank crossings is reached by any of the carriers that serve the Atlantic seaboard. Chicago is reached from the Atlantic seaboard by the eastern railroad systems, such as the Pennsylvania, the New York Central, and the Baltimore & Ohio, which also, from the same territory, reach East St. Louis. However, neither the New York Central, the Pennsylvania, nor the Baltimore & Ohio reaches East St. Louis except over the lines of their subsidiaries, which are, respectively, the Cleveland, Cincinnati, Chicago & St. Louis, the Vandalia, and the Baltimore & Ohio Southwestern. The Pittsburgh, Cincinnati, Chicago & St. Louis, owned by the Pennsylvania, also reaches East St. Louis.¹ Over their own rails none of the eastern system lines and their subsidiaries reaches St. Louis, which is the most important of the lower crossings. Traffic passing through St. Louis from the east, transported by these lines, is handled from East St. Louis to St. Louis either by the Terminal Railroad Association of St. Louis or by wagon transfer. The interest of the so-called eastern system lines in their subsidiaries is a matter of record in the annual reports filed by the carriers with the Interstate Commerce Commission, and requires no detailed analysis here.

The more direct route to the interior Iowa cities from most of the eastern territory is through Chicago and the upper crossings, and the rate adjustment to interior Iowa has generally favored that route. A considerable portion of the traffic, however, particularly that from central freight association territory, moves through Peoria

¹ Some of the lines, including the Illinois Central, reach St. Louis over the rails of the Terminal Railroad Association of St. Louis, which they own in part. *United States v. Terminal R. Assn.*, 224 U. S. 383.

instead of Chicago. Just what percentage moves through Peoria as compared with Chicago does not definitely appear of record, although the carriers claim that the larger bulk of the traffic moves through Chicago and Chicago junctions. A significant fact, deducible from the foregoing, is that a large part of the traffic between the east and the interior Iowa cities involves at least a two-line haul east of the river, either over what are generally known as the intercorporate related eastern system lines above mentioned, or over lines that are absolutely independent of each other. Carload traffic moves through without breaking bulk, while less-than-carload traffic, according as it may be routed, is rehandled either at Chicago, Peoria, or East St. Louis, which are the principal junctions between the eastern and western lines. Depending upon its origin and the originating line, less-than-carload traffic also may require transfer and rehandling before it reaches the western junctions above mentioned.

THE RATE ADJUSTMENT FROM THE TRUNK LINE TERRITORY.

Although both the westbound and eastbound rates are in issue, the first-class westbound rates, local and proportional, will, for convenience in discussion, be used as typical, and unless otherwise explained, all rates will be expressed in cents per 100 pounds.

From trunk line territory prior to April 1, 1914, the rates to all the Mississippi River crossings, both upper and lower, were controlled by the rates from New York City to Chicago, which are the key rates, or the 100 per cent standard, of the well-known McGraham scale. Until December 31, 1907, the east bank lower crossings were in the 116 per cent group, and rates to the west bank lower crossings were made by adding a "bridge arbitrary," or river crossing charge. Since that date the lower crossings on both the east and the west banks of the river have been, and still are, in the 117 per cent group, while the east bank upper crossings were, but are not now, included either in the 122 per cent group or what was called the "122 per cent plus" group. To reach the west bank upper crossings in the 122 per cent plus group, a bridge arbitrary of 5 cents was added to the 122 per cent rate. Prior to April 1, 1914, the local first-class rate from New York City to the lower crossings was 88 cents; to the east bank upper crossings, which were in the 122 per cent group, 92 cents; and to the west bank upper crossings, as well as the east bank upper crossings in the 122 per cent plus group, the rate was 97 cents. On traffic moving beyond the crossings to the interior Iowa cities, however, the local 88-cent class scale, then applicable to the lower crossings, was maintained as a proportional class scale to the east bank upper crossings.

West of the river, on all state traffic including that between the west bank upper crossings and the interior Iowa cities, the Iowa

state mileage scale is applied; but that state mileage scale has never been combined with the interstate proportional class scale to the east bank upper crossings in constructing through rates to the interior Iowa cities. The through rates, prior to any decision by the Commission, were based upon the full local rate to the west bank upper crossings, plus the local state mileage scale beyond, except as they might be modified by lower combinations through Peoria, Chicago, or some other point, or affected by the variations in the classifications and short-line distances. For example, the local first-class rate from New York City to a west bank upper crossing was, prior to April 1, 1914, 97 cents, and the Iowa mileage rate beyond to Iowa City was 18.8 cents, or a total through rate of 115.8 cents. The factors actually published, however, were the 88-cent proportional rate to the east bank and 27.8 cents beyond. This method of constructing the through rates to and from the interior Iowa cities was fully explained in the original report in the *Interior Iowa Cities Case*, *supra* (id., p. 70).

The decisions of the Commission in *Greater Des Moines Committee v. C., R. I. & P. Ry. Co.*, 17 I. C. C., 54; and *Ottumwa Commercial Asso. v. C., B. & Q. R. R. Co.*, 17 I. C. C., 413, resulted in through rates, made up of the proportional factors separately established to and from the river, lower than the lowest combination of locals. On traffic to Des Moines from New York City the difference between the lowest combination of locals on the river and the aggregate of the separately established proportionals, first class, amounted to 4.8 cents and on traffic to Ottumwa 2.6 cents. The difference on traffic to Cedar Rapids was made 2 cents by the voluntary action of the carriers. The through charge from New York City to Des Moines, first class, was made \$1.25, or 28 cents more than the local rate of 97 cents then applicable from New York City to the upper west bank crossings. This 28-cent differential was one-half cent more than the even split of the first-class 55-cent proportional rate applicable between the Mississippi and Missouri rivers. On fifth class the differential was less than one-half of the river to river proportional. Between April 1, 1914, and January 15, 1915, after the announcement of the supplemental report in the *Interior Iowa Cities Case*, *supra*, the through charges from the trunk line territory to interior Iowa cities were based substantially on the lowest combination of locals through the river crossings nearest to the Iowa destinations. Since January 15, 1915, the through charges from trunk line territory to the interior Iowa cities have exceeded the combination of locals¹ on the Mississippi River.

¹ The factor west of the river is the Iowa distance scale, which is on file with the Interstate Commerce Commission.

In *The Mississippi River Case, supra*, the 97-cent local scale applicable to the west bank upper crossings from the trunk line territory, then 9 cents above the 88-cent local scale applicable to the lower crossings, was reduced by order of the Commission to 90 cents, thus leaving a spread between the upper and lower crossings of 2 cents on the first two classes and 1 cent on the remaining classes. Concurrently, as heretofore explained, and pursuant to their interpretation of the findings of the Commission in its original report in the *Interior Iowa Cities Case, supra* (id., p. 74), the defendant carriers established a system of proportional class rates from the east bank upper crossings to the interior Iowa cities based upon the Iowa state distance scale plus 2 cents on the first two classes and 1 cent on the remaining classes, these added arbitraries being equivalent to the spread between the upper and lower crossings fixed by the Commission in *The Mississippi River Case, supra*. The proportional rates thus established for the service west of the river were combined with the 88-cent proportional class scale then applicable to the east bank upper crossings (which was the same as the local scale to St. Louis) in constructing through rates to the interior Iowa cities. In effect this adjustment was equal to the sum of the full local rates to and from the west bank upper crossings. The defendant carriers do not admit that the proportional rates west of the river have any relation to the service west of the river, and insist that they were constructed upon the basis of protecting the lowest combination through any gateway.

When the spread was fixed between the upper and lower crossings in the local class scale from the trunk line territory, of 2 cents on the first two classes and 1 cent on the remaining classes, this change taking effect April 1, 1914, very strong reasons appeared upon the record for making a straight rate line of the river by placing all the crossings on a rate parity; but the Commission refrained at that time from following such a course because of the serious results that the change would then have upon the revenues of the carriers. *The Mississippi River Case, supra* (id., p. 59). On December 16, 1914, nearly eight months later, the carriers were authorized in *The Five Per Cent Case*, 32 I. C. C., 325, to increase their rates in the official classification territory. Accordingly, on January 15, 1915, the New York-Chicago scale, which we have seen was the 100 per cent standard under the McGraham scale, was increased by 5 per cent, or from 75 cents to 78.8 cents; and in order to preserve the existing relation of St. Louis to Chicago, the rate to St. Louis was made 92.2 cents, or 117 per cent of the Chicago rate. Thereupon the Commission, apparently of the opinion that the reasons which moved it to approve the spread between the upper and lower crossings on

traffic to and from the trunk line territory had ceased to exist, entered an order in *The Mississippi River Case, supra*, requiring that the upper and lower crossings be put upon an equal rate basis, thus, in respect of trunk line traffic, making a straight rate-basing line of the river between Dubuque on the north and St. Louis on the south. By virtue of this order the lower crossings class rate from the trunk line territory of 92.2 cents became also the local class rate from the same territory to the west bank upper crossings. Previously, it will be recalled, the proportional scale to the east bank upper crossings was the same as the local scale to the west bank lower crossings, this adjustment having been maintained to equalize the through rates through all crossings on traffic to and from the Missouri River cities and points beyond. But when the river was straightened out as a rate-basing line, and the local rates to St. Louis became also the local rates to the west bank upper crossings, there no longer existed a necessity for maintaining a proportional class scale to the east bank upper crossings lower than the local class rates contemporaneously maintained to the west bank upper crossings. The local class rates from trunk line territory to the west bank upper crossings therefore became also the proportional class rates from the same territory to the east bank upper crossings, and in consequence of this change the sum of the two proportional class rates (over the short line from the nearest Mississippi River crossing west to the point of destination) to and from the east bank upper crossings exceeded, in violation of the fourth section, the aggregate of the intermediate rates to and from the west bank upper crossings by the amounts of the arbitraries added to the Iowa distance scale. This is the situation existing at present, although the defendant carriers do not agree that the fourth section is violated.

THE RATE ADJUSTMENT FROM CENTRAL FREIGHT ASSOCIATION TERRITORY.

From the central freight association territory to the west bank upper crossings the local rates are all in excess of what is commonly known as the central freight association distance scale; and, in harmony with the practice on traffic from the trunk line territory, the local class rates to the lower crossings are maintained as proportional class rates to the east bank upper crossings. Prior to April 1, 1914, and before the rates approved by the Commission in its supplemental report in the *Interior Iowa Cases, supra*, became operative, the basis for constructing the rates from this territory to the interior Iowa cities was the same as that used in constructing rates from the trunk line territory; that is to say, the rates were based upon the sum of the full local rates to and from the west bank upper

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crossings, using the distance from the nearest upper west bank crossing, subject, however, to the lower combinations of locals that might be made through any other gateway, such as Chicago, Peoria, or Quincy. Since October 26, 1914, the through interstate charges from central freight association territory to the interior Iowa cities have been less than the through charges made by combining the Iowa distance scale with the local interstate rates to the west bank upper crossings.

The Commission in its supplemental report in *The Mississippi River Case*, 29 I. C. C., 530, 533, found (a) that the rates between the west bank upper crossings on the one hand and on the other hand Pittsburgh, Buffalo, and points taking the same rates, should be 66 per cent of the New York rates to the west bank upper crossings, thus creating a spread between the upper and lower crossings on the first three classes of 3, 2½, and 2 cents, respectively, and on the remaining three classes 1½ cents; (b) that between points west of Pittsburgh and the west bank upper crossings, for distances of more than 500 miles, rates should be established on the basis of the same spread between the upper and the lower crossings as had been found proper from Pittsburgh and Buffalo; (c) that for distances of 500 miles and under, where the average distances between central freight association points and the west bank upper crossings were the same or less than the distance to St. Louis, the same spread between the upper and lower crossings should be maintained; and (d) that when the average distances to the west bank upper crossings exceeded the distances to St. Louis the spread between the upper and lower crossings on the first three classes of 3, 2½, and 2 cents, respectively, and on the remaining three classes of 1½ cents, should be increased not to exceed 1 cent on the first two classes and one-half cent on the remaining four classes for each 25 miles or fraction thereof that the distance to the upper crossings exceeded the distance to St. Louis. The rates so established were later increased as a result of *The Five Per Cent Case*, *supra*, not by 5 per cent, but by the amounts necessary to preserve the spread fixed in *The Mississippi River Case*, *supra*, between the upper and the lower crossings. The local rates to St. Louis from Pittsburgh, Buffalo, and points west thereof are now applied as proportional rates from the same territory to the upper east bank crossings, and are combined with the proportional rates from these crossings in constructing through rates to and from the interior Iowa cities. The proportional rates west of the Mississippi River into interior Iowa on this traffic are made by adding 2 cents on the first two classes and 1 cent on the remaining classes to the Iowa distance scale from the nearest upper west bank crossing.

THE COMPLAINT.

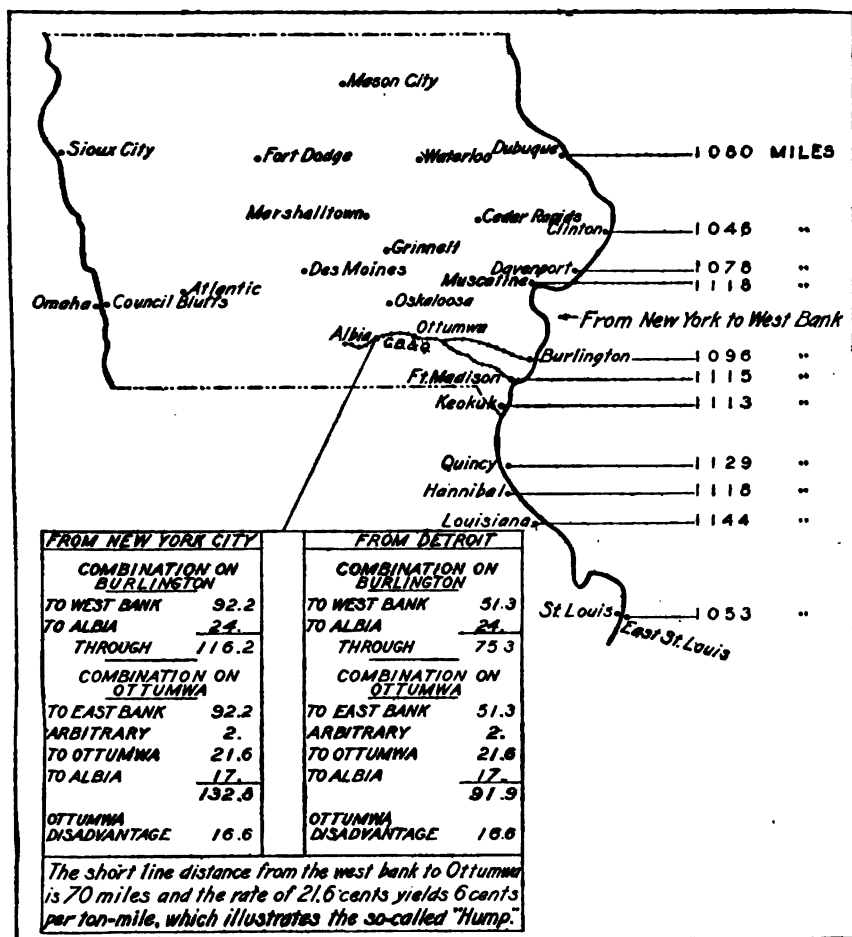
Under the adjustments explained in the preceding paragraphs, which are at present in effect, it is alleged by the complainants that the manufacturers and jobbers located in Chicago and in both the west bank upper and lower crossing cities may reach many of the interior Iowa points of consumption, as well as the territory outside of Iowa between the Mississippi River and the Pacific coast, at rates less than those available to the manufacturers and jobbers located in the interior Iowa cities. The defendant carriers, on the other hand, assert that there are many points in this territory where the rate advantage lies with the interior Iowa cities and against Chicago, St. Louis, and the upper river crossings. The relative amount of territory where either group of cities has the advantage was dealt with in briefs and on argument. The chief cause of the existing situation is asserted by the complainants to be the scale of proportional rates applicable to that portion of the haul west of the Mississippi River; and the principal issue in this case, around which the controversy centers, is the manner in which the 55-cent proportional scale between the Mississippi and Missouri rivers shall be graded across the state. This was a controlling consideration in the Commission's original decision, *Interior Iowa Cases, supra*; and it is one of the important points on which will rest the outcome of the present proceeding.

The complainants maintain that, taking the Missouri River as a starting point, the 55-cent proportional rate between the rivers, if graded back across the state in a proper and logical way, that is, prorated in accordance with the distances between the river, giving proper recognition to the long-and-short-haul clause, to routings, to the combination of locals as maximum, and to competitive conditions, will produce a set of proportional rates which, when used in connection with the proportional rates east of the Mississippi River, will yield reasonable through charges to and from the interior Iowa cities.

The present proportional rates west of the river, as heretofore explained, are based upon the Iowa distance scale, plus 2 cents on the first two classes and 1 cent on each of the lower classes; and this basis extends westward to the first point that comes within the application of the 55-cent proportional scale between the rivers. The use, in this way, of the Iowa distance scale creates a so-called "hump" immediately west of the Mississippi River, resulting in the application of rates for the service west of the river on a level as high as if the transportation began at the river, and the interior Iowa manufacturers and jobbers urge that the use of such a scale as

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factors west of the Mississippi River in making rates to the interior Iowa cities is unjust, unreasonable, and inconsistent with the usual method of rate making in that it adds high short-haul factors at the end of hauls ranging from 200 miles to over 1,000 miles in length. Furthermore, it is urged that on traffic to the most of Iowa points from the trunk line and New England territories such a scale includes



four terminal charges, plus 2 cents on the first and second classes and 1 cent on the remaining classes. On traffic from central freight association territory to the larger part of Iowa, the rates to the Mississippi River include one terminal charge, and the rates west of the river include two terminal charges, making in all three terminal charges plus the arbitraries before mentioned of 2 cents on the first and second classes and 1 cent on the remaining classes. The com-

plainants, therefore, finding themselves at substantially the same disadvantage that they experienced under the adjustment which first existed, but in a greater degree, so far as the upper crossings are concerned, because of the wider spread in some of the rates, are mainly reasserting in their petitions for rehearing the prayers of their original complaints.

The defendant carriers, in a brief filed through inadvertence in another proceeding but which is now of record here, admit that, so far as the use of the Iowa distance scale west of the river results in through charges less than the aggregate of the proportional rates to and from the river, the situation demands a remedy, and they urge that from the trunk line territory an increase of 5 per cent be allowed in the old 90-cent local class scale from New York City to the west bank upper crossings, which would make the local class rate 94.5 cents, instead of 92.2 cents as it now is, and leave the present 92.2-cent class scale to apply to the east bank upper crossings as a proportional scale on traffic destined to the interior Iowa cities. In other words, the suggestion is to restore the spread between the upper and lower crossings of 2 cents on the first two classes and 1 cent on the remaining classes. The complainants, however, insist, both in the original complaints and in the petitions for rehearing, that for the purpose of making rates to the interior Iowa cities the upper and lower Mississippi River crossings should be on a parity and that the proportional scale of 55 cents applying between the Mississippi and Missouri river crossings on through traffic should be scaled back across the state of Iowa. Upon these opposing contentions the issue is raised. The sketch on page 49, with two illustrations of the alleged disadvantages which are the subject of complaint by the interior Iowa manufacturers and jobbers, may serve to clarify the situation. The disadvantages shown would of course be correspondingly less in cases where the traffic moves into the interior Iowa manufacturing and jobbing cities in carload quantities and thence to the points of consumption in less-than-carload quantities.

COMPLAINANT'S EVIDENCE.

In view of the defendant carriers' admission that the rate differences complained of exist, and that the situation demands a remedy, it hardly seems essential here to discuss in detail the evidence introduced by the complainants. It is sufficient to say that this evidence in the main shows the measure of the rate differences, referred to upon the record by the complainants as "discriminations" and "disadvantages" against the interior Iowa cities and in favor of their competitors located at the upper and lower Mississippi River crossings and also at Chicago. An illustrative example is witness

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Beal's Exhibit No. 1, wherein it is shown by 66 comparative tables that in reaching the ultimate points of consumption in Iowa from New York City and Syracuse, the west bank upper Mississippi River cities have rate advantages over the interior Iowa manufacturing and jobbing points ranging, respectively, from 9.2 to 17 cents. From Pittsburgh and Detroit these advantages range from 5 to 14 cents; and from Cincinnati from zero to 10.4 cents. Other comparisons of interest show that St. Louis has a rate advantage over many interior Iowa cities in reaching the territory west of the Missouri River, including the Pacific coast, although the distance from the interior Iowa cities to most of the points north of Kansas City in this territory is less than from St. Louis. For example, on traffic from New York to a very small part of the state of Montana, Des Moines has the advantage on first class only; but on all other classes and also on all classes to all other territory west of the Mississippi River St. Louis has the advantage. A map illustration was introduced showing that Des Moines is on an equality with or has the advantage over Chicago on traffic from New York City to only a few points of importance in southwestern Iowa. To all other territory Chicago has the advantage. There are of record in behalf of the complainants 19 very comprehensive and useful exhibits emphasizing in minute detail the rate differences against Des Moines, the successive changes that led up to this situation, comparative distances, density of population, etc. Other exhibits filed of record show that the ton-mile revenue yield of the rates west of the river is greater than that east of the river. Several Iowa jobbers testified that in reaching points of consumption in Iowa they were obliged to meet the prices of the Mississippi River jobbers by assuming the differences in the freight rates, and they illustrate the disadvantages of which they complain by applying the rates in effect to actual traffic movements. The balance of the evidence in behalf of the complainants is principally rate and distance comparisons and the testimony of manufacturers and jobbers covering the transportation of freight that actually moves through interior Iowa points and competitive cities. In the main the evidence was directed to the advantages of the manufacturers and jobbers at the upper crossings, and at St. Louis and Chicago. It is not seriously contended by the complainants that the combination of rates into the interior Iowa jobbing points and outbound to the points of consumption should in all cases be precisely the same as the combination of rates into and out of the competitive jobbing points, such as Chicago, St. Louis, and the upper river crossings. It is strongly urged, however, that wherever possible such equality should be secured, and that the differences at present prevailing between these combinations gives an undue advantage to the manufacturers and

jobbers at Chicago, St. Louis, and the upper Mississippi River cities, to the undue prejudice and disadvantage of the interior Iowa cities. Some of the evidence related to specific commodity rates between particular points, but as there is no basis of record for definitely considering them, it is suggested that they ought to be dealt with in separate proceedings, providing there still remains a cause for complaint after the class rates here under consideration are adjusted.

Broadly speaking, it may fairly be said from the evidence of record that the interest of the complainants is in not only what they term unjust discriminations resulting from the inconsistent relation of rates, but also in the intrinsic unreasonableness of the rates themselves. The proportional factors applying west of the river from the upper crossings to the interior Iowa cities are attacked as unreasonable *per se*. This latter phase of the case has reference to the so-called "hump," in the through charge and, as evidence of its unreasonableness, the complainants offered a number of comprehensive illustrations showing, by way of comparison (a) that proportional rates such as are charged for the service west of the river are usually less than the local rates for a like measure of service; (b) that through rates as a general rule are less than the aggregate of the full local rates; (c) that in some instances the amounts added to the basing rates in fixing the through charge to points beyond are appreciably less than the amounts added to the proportional rates applicable to the upper Mississippi River crossings from points east of the Indiana-Illinois state line in fixing the through charges for comparative distances to interior Iowa points; and (d) that the ton-mile earnings of the western carriers from Chicago to the Mississippi River, under their proportion of the through rate to the Mississippi River from New York City, are materially less than the ton-mile earnings of these same carriers under the proportional rates from the Mississippi River to the interior Iowa points.

THE DEFENDANTS' EVIDENCE.

The defendants, as heretofore explained, acknowledge the rate differences, also the "hump" in the proportional factors west of the river, preferring, however, not to characterize these differences as disadvantages or discriminations. They offered in evidence a number of exhibits in which the rates, successive changes, distances, density of traffic, and the revenue yield of the rates per ton-mile were compared. Although admitting, as they do, that the situation demands a remedy, the purport of the evidence introduced by the defendants, taken as a whole, is that the through rates now in effect are too low. They developed upon the record 11 principal points,

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which, together with the rebuttal evidence introduced by the complainants, will be discussed separately in the 11 succeeding paragraphs, viz:

1. That the Iowa distance scale is lower than the maximum distance scales established by the states of Minnesota, Missouri, Nebraska, and Wisconsin, lower than the so-called "Prouty scale," and also lower than the actual rates charged for state transportation in Wisconsin, Missouri, and Nebraska. In rebuttal the complainants show that, differing from the scales of other states, the Iowa scale must be observed both as minimum and maximum, and the carriers are not permitted to apply lower rates even to meet short-line competition. The state of Minnesota also has prescribed a single minimum and maximum distance scale, but the carriers are permitted to cut under it in meeting short-line competition. The complainants further point out (a) that, as before explained, the proportional rates from the Mississippi River crossings to the interior Iowa cities are applied at the end of hauls ranging from 200 to 1,000 miles in length, while for distances above 200 miles, under the Minnesota, Missouri, Nebraska, and Wisconsin scales, also the Prouty scale, the amounts added as the distance increases are very much less than the proportional rates here under attack; (b) that rates from the territory east of the Indiana-Illinois state line to points in Illinois, approved by the Commission, exceed the Chicago rates, in many instances, by amounts that are less for similar distances than the proportional rates from the Mississippi River crossings to interior Iowa points; and (c) that the amounts added to the Chicago rates in constructing rates to Illinois points are much less than the Illinois state rates for similar distances.

2. The carriers showed that the revenue yield per ton-mile of the first-class rate of 92.2 cents from New York City to the upper Mississippi River crossings, using the average of the short-line distances to those crossings, is lower than the revenue yield per ton-mile of the first-class rates from New York City to St. Louis, Peoria, and Chicago, these rates being respectively 92.2, 86.7, and 78.8 cents. In rebuttal the complainants show that the revenue yield per ton-mile of the 92.2-cent rate from New York City is (a) greater to the average of the upper crossings than to the average of the lower crossings, (b) greater to the nearest of the upper crossings than to the most distant of the lower crossings, (c) greater to the most distant of the upper crossings than to the most distant of the lower crossings, and (d) that the rates to Peoria and East St. Louis from New York City both yield a ton-mile revenue less than the rates from New York City to Clinton and Savanna.

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3. The carriers testified that in *The Five Per Cent Case*, 32 I. C. C., 851, the class rates from the trunk line territory to the upper west bank crossings, using first class from New York City as an example, were increased only 2.2 cents, or a little less than 2.5 per cent; while the proportional first-class rate to the east bank upper crossings was increased 4.2 cents, or approximately 4.8 per cent. In respect of this proposition the complainants point out that, as a result of *The Five Per Cent Case, supra*, when consideration is given to the six classes, the average increase in the proportional rates from New York City to the upper east bank crossings amounted to 5.12 per cent; and, further, that since the Commission found the local class rates to the west bank upper crossings excessive, the advance of only 2.5 per cent, instead of a flat 5 per cent increase, was justified, and that the Commission required that adjustment in its supplemental order, entered December 29, 1914, in *The Mississippi River Case, supra*.

4. The carriers showed that if the proportional rates from the west bank upper crossings to interior Iowa are reduced to the extent of the added arbitraries, which equaled the spread in the rates between the upper and lower crossings fixed in *The Mississippi River Case, supra*, the interior Iowa cities will bear only 2.5 per cent increase as a result of *The Five Per Cent Case, supra*, whereas Chicago and St. Louis bear, respectively, 5 and 4.8 per cent. The complainants show, however, that a reduction in the proportional rates west of the Mississippi River would not affect the increase in the proportional rates up to the river, since that advance would still stand, and for that part of the haul the interior Iowa cities would bear an increase of 5.12 per cent on all six classes. They point out that there was no general advance ordered or permitted by the Commission in respect of either the class or proportional rates west of the Mississippi River.

5. The defendant carriers further showed that prior to *The Five Per Cent Case* (a) for their service from Chicago to the upper river crossings, they received out of the 88-cent proportional scale 14.9 cents, while out of the present rate of 92.2 cents they receive 15.6 cents, or a gain of 0.7 of a cent; (b) that if the proportional rates west of the river are reduced by the elimination of the arbitraries added to the Iowa distance scale a net loss of 1.3 cents will result on traffic from trunk line territory to the interior Iowa cities; (c) that a net loss of 1.3 cents actually occurs at present under the practice of some shippers in routing their traffic so that it will be handled east and west of the river by different carriers, a practice which permits the application of the Iowa distance scale west of the river instead of the proportional scale, which, as we have seen, is

higher; and (d) that if the Iowa distance scale was established as a proportional class scale west of the river, at least some of the defendant carriers would in fact earn less, for the reason that it would be necessary to apply that scale from all crossings based upon the short-line distance from the nearest crossing; otherwise all the gateways would not be on an equality and the result would be to close some of them entirely. In rebuttal the complainants show (a) that the results anticipated by the defendants are predicated upon the assumption that the present basis of dividing the through charges between the eastern and the western carriers will be maintained; (b) that, as before explained, again using New York City as an example, the local first-class rate of 92.2 cents to the west bank upper crossings is the same as the first-class proportional rate to the east bank upper crossings; (c) that although the transportation service east of the Mississippi River is the same in measure on traffic destined to the river crossings proper as it is on traffic destined to the interior Iowa cities, the basis for dividing the local rate between the eastern and the western carriers is nevertheless not the same as the basis for dividing the proportional rate; (d) that out of the 92.2-cent local rate from New York City, as applied on traffic destined to the west bank cities, the western carriers receive 25.7 cents, while out of that same rate, when applied as a proportional to the east bank crossings, on traffic destined to the interior Iowa cities, the western carriers receive only 15.6 cents; (e) that if the same basis of divisions was applied in dividing the 92.2-cent rate, when applied either as a local or a proportional rate, the western carriers would receive 10.1 cents more than they now receive on interior Iowa traffic; (f) that the western carriers could reduce the first-class proportional rates now applicable from the east bank upper crossings to the interior Iowa cities to the extent of 10.1 cents and still retain their present revenue, providing the first-class proportional rate, applied from New York City to the east bank upper crossings, was divided between the eastern and the western carriers upon the same basis as they now divide the local first-class rate applicable to traffic destined to the west bank cities; and (g) since their service to the upper Mississippi River crossings is the same, irrespective of whether the traffic is destined to the Mississippi River cities proper or to interior Iowa cities, the eastern carriers are not entitled to a greater share of the river rate on traffic destined to the interior Iowa cities than they receive on traffic destined to the Mississippi River cities.

6. The carriers further showed that if the Iowa distance scale is applied as a proportional scale from the upper crossings to the interior Iowa cities the result will be a reduction in the 55-cent

scale now applicable on through traffic between the Mississippi and the Missouri rivers, and also a corresponding reduction in the rates to points west of the Missouri River, many of which are constructed in combination with the 55-cent proportional scale. In respect of this assertion the complainants state that they do not ask for the application of the Iowa distance scale as the proportional west of the Mississippi River, and they ask for no reduction in the 55-cent scale between the rivers, but that their complaint in this proceeding is confined to prorating the 55-cent scale across the state.

7. A further showing by the defendants was that if the revenue yield per ton-mile of the present trunk line scale of 92.2 cents to St. Louis, the less distant lower crossing, which is 1.751 cents, was used as a basis for constructing the local rates for the average distance to the upper crossings the first-class rate for the average distance to those crossings would be 95.2 cents. The revenue yield of this same rate for the average of the distances to all the lower crossings was not compared with the revenue yield for the average of the distances to all the upper crossings; nor was the revenue yield to the less distant of the lower crossings compared with the revenue yield to the less distant upper crossings.

8. The defendants pointed out that if in lieu of the present Iowa distance scale, now applied outbound from the west bank river cities, and also from interior Iowa jobbing points, on traffic reshipped from both the Mississippi River cities and the interior Iowa jobbing points to the interior Iowa points of consumption, a different state distance scale were substituted, based upon the average of the Minnesota, Missouri, Nebraska, and Prouty scales, the so-called differences now alleged to exist in favor of the principal west bank cities would be substantially reduced. To this the complainants respond, (a) that a similar result would follow, and that the discriminations in favor of the Mississippi River cities would be reduced, if there should be substituted for the Iowa distance scale a scale 5 per cent, or any other percentage, higher than the present Iowa distance scale, preserving precisely the same grading as exists to-day in the Iowa distance scale; (b) but that the change suggested by the defendants would not remove the discrimination to a large part of Iowa, the relative amount of which was discussed more fully in briefs and in argument; (c) nor would the suggested change remove any of the discriminations existing in favor of either the upper or lower Mississippi River crossings or Chicago on traffic reshipped from interior Iowa jobbing points to points outside the state of Iowa.

9. Evidence was offered by the defendants tending to show that the so-called "hump" immediately beyond rate-breaking points is not an unusual condition.

10. The defendants further showed that to points in Iowa on the line of the Chicago, Burlington & Quincy west of Ottumwa, the combination through Ottumwa on traffic from New York City is less than the combination through Chicago to the same points. In reply the complainants show that this situation exists only in reference to a part of the class rates, and is confined to the natural territory of Ottumwa and other Iowa towns; further, that the situation does not exist as to most of the rates involved on traffic destined to Iowa territory, and that on traffic destined to any part of the United States outside of Iowa the advantage rests almost entirely with Chicago. The defendant carriers, however, do not concede the accuracy of this contention by the complainants, and have discussed in brief and argument the relative territory in which the advantage rests with either group of cities.

11. The defendant carriers further show that the rate paid by Kansas City and Omaha on traffic from trunk line and central freight association territories is appreciably higher per ton-mile than that paid by the interior Iowa cities; and that for comparable distances the rates paid from these territories to points in the state of Missouri are higher than to the interior Iowa cities. Exhibits filed by the complainants in rebuttal, using the yield per ton-mile of the rates to the Mississippi River and applying them to the interior Iowa cities, were introduced in evidence. By use of this latter basis it is shown that the rates to the interior Iowa cities would be appreciably reduced below their present level.

There is some evidence of record bearing upon the expense of the break and transfer at Chicago between the eastern and western carriers, a witness in behalf of the defendants having testified that the cost to the Chicago & North Western of transferring less-than-carload traffic at its Wood street, Fortieth street, and Sixteenth street stations is approximately 74 cents per ton, or 8.7 cents per 100 pounds. No evidence was introduced to show that there is any difference in the cost of transfer at Chicago of either less-than-carload or carload freight, depending upon whether the traffic is destined locally to the upper Mississippi River crossings or to interior Iowa points.

One witness testified that with respect to certain traffic from the east, the Chicago shippers are at a disadvantage in that certain eastern competitors of the Chicago jobbers are able in many instances to reach the Mississippi River cities and the interior Iowa cities at rates less than the sum of the locals through Chicago. And it was suggested that if Chicago's disadvantage is to be enlarged by a decrease in the rates to the upper Mississippi River cities and to the interior Iowa cities, the Chicago

shippers will probably complain. This situation is illustrated by several exhibits comparing the combination rates over the river with the combination rates over Chicago in reaching the interior Iowa cities; also comparisons of the rates to the river crossings from Chicago with the rates from points in central freight association territory. Among these comparisons are the rates from Indianapolis and Chicago to Dubuque, and from Toledo and Chicago to St. Louis. In 52 instances it appears that Indianapolis has a slight advantage over Chicago in reaching Dubuque, and in 57 instances that Toledo has the advantage over Chicago in reaching St. Louis. The complainants contested, as incomplete, the comparisons made in the rates from Indianapolis and Chicago to Dubuque, showing that on a large number of articles Chicago has the advantage. They also point out that the witness did not compare the aggregate rates in and out of the eastern jobbing cities on traffic originating east thereof and reshipped from such cities to interior Iowa points, with the aggregate of the local rates on the same traffic when reshipped through Chicago. Instead, he compared, using the eastern jobbing cities as the originating points, the through charges from those points based upon the aggregate of the proportional rates to and from the Mississippi River crossings, with the aggregate of the local rates on the same traffic through Chicago. This comparison shows that the through charges from the eastern jobbing cities are invariably less than the combination of locals through Chicago.

HARLAN, Commissioner:

The course followed in the related case, *Railroad Comm'rs of Iowa v. A. A. R. R. Co.*, *infra*, page 20, was also pursued here; that is to say, the foregoing statement of the facts in the case as shown by the evidence was prepared by the examiner before whom the case was heard and was agreed to upon the record, with the understanding that other facts and matters material to the issue could be fully discussed on briefs and oral arguments.

Broadly speaking, the complainants are asking here that we reaffirm the conclusion announced in the original report herein, 28 I. C. C., 64, 75, namely, that the proportional scale prescribed in *Warnock Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 546, be logically prorated across the state of Iowa. The defendants, on the other hand, offer substantially the same defense that was offered by them in the related case just mentioned. The two-line haul through Chicago, the break and transfer at that point between the eastern and western lines, the higher rated territory west of Chicago in which the traffic density is said to be less than in the eastern territory here involved, and the depressing influence

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of competition with eastern lines on the rates between the east and the Mississippi River, are strongly advanced as reasons why the rates between the eastern territory and the interior Iowa cities are lower than they otherwise would be. These matters, however, were carefully weighed when the proportional scale between the rivers was prescribed, and are reflected in the level of that scale which ranges approximately from 125 to more than 135 per cent higher than the local rates maintained in the territory east of the Indiana-Illinois state line.

In the original report we announced that the carriers would be expected to propose a system of single proportional rates, applicable west of the Mississippi River on through traffic moving in both directions, that would bear a reasonable relation to the Mississippi-Missouri river proportional scale of 55 cents; and although the proportional rates subsequently established had our approval, it becomes apparent that the interior Iowa cities were not given the relief which this broader record shows they are entitled to have. It is also clear that the rate changes since made have unquestionably enlarged the disadvantages of which the interior Iowa cities complained in the original proceeding.

The evidence submitted on rehearing does not convince us that for the service west of the Mississippi River on eastern traffic the interior Iowa cities should pay, as the record shows they now do, a higher level of rates than is contemporaneously maintained to the Missouri River cities; nor do we find any ground for modifying our former views, namely, that the 55-cent scale should be prorated equitably between the Mississippi and Missouri rivers as a basis for fixing rates between the territory east of the Indiana-Illinois state line and the interior Iowa cities.

Upon the whole record we find and conclude (a) that existing class rates between points east of the Indiana-Illinois state line and the interior Iowa cities are, and for the future will be, unjust and unreasonable to the extent that the factors west of the Mississippi River exceed the proportional class rates set forth in the proportional class scale following, and (b) that for the future reasonable maximum through class rates between points in the official classification territory east of the Indiana-Illinois state line and the interior Iowa cities will be made by adding to the local or proportional rates, whichever are lower, applicable between points in official classification territory east of the Indiana-Illinois state line and the west bank of the Mississippi River, proportional class rates, subject to the western classification, not in excess of those shown in the following table:

Proportional class scale, in cents per 100 pounds, on traffic to and from points east of Indiana-Illinois state line, to be applied between the west bank of the Mississippi River and interior Iowa cities.

Miles from and including—	1	2	3	4	5	A	B	C	D	E
1 to 25.....	8	6	5	3.5	2.5	3	2.5	2	2	1.5
26 to 50.....	12	9	7	5	4	4.5	3.5	3	2.5	2
51 to 75.....	16	12	9	7	6	6.5	5	4.5	3.5	3
76 to 100.....	20	15	12	9	7	7.5	6.5	5.5	4.5	3.5
101 to 120.....	24	18	14	10	9	9.5	7.5	6.5	5.5	4.5
121 to 140.....	28	21	16	12	10	11	9.5	7.5	6	5.5
141 to 160.....	32	24	18	14	11	13	10.5	8.5	7	6
161 to 180.....	36	27	21	16	13	14	11.5	9.5	8	6.5
181 to 200.....	40	30	23	18	15	16	13	10.5	8.5	7.5
201 to 220.....	43	32	25	19	16	17	14	11.5	9	8
221 to 240.....	46	34	27	20	17	18	15	12.5	10	8.5
241 to 260.....	49	37	29	22	18	19	16	13.5	11	9
261 to 280.....	52	39	31	23	19	21	17	14	11.5	9.5
281 to 300.....	55	41	32	24	20	22	18	15	12	10

In the absence of substantial reasons for a change, the principle herein announced, but not the rates themselves, should remain permanent even though conditions may in the future require either increases or reductions in the amounts of the rates; that is to say, the Mississippi-Missouri river proportional scale, whatever its level, should in the future be the basis for fixing rates between the territory east of the Indiana-Illinois state line and the interior Iowa cities. It is expected that the carriers will adjust their commodity rates to conform to that basis. An appropriate order will be entered.

No. 8878.

NATCHEZ CHAMBER OF COMMERCE ET AL.

v.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
ET AL.

Submitted February 11, 1917. Decided July 5, 1917.

Rates on lime in carloads from producing points in Alabama, Tennessee, Georgia, and Kentucky to Natchez, Miss., not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial as compared with rates on the same commodity from the same and near-by points of origin to New Orleans. Complaint dismissed.

B. F. Martin for complainants.

A. P. Humburg, R. Walton Moore, M. P. Callaway, William Burger, and *H. R. Wilson* for defendants.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

The rates on lime in carloads from producing points in the states of Alabama, Tennessee, Georgia, and Kentucky, to Natchez, in the

state of Mississippi, are here complained of as unreasonable, unjustly discriminatory, and unduly prejudicial when compared with the rates on the same commodity from the same and near-by points of origin to New Orleans. The petition asks (1) that there be established for the future rates to Natchez no higher than those contemporaneously maintained to New Orleans; and (2) for an award of reparation on all shipments of lime from Legarde, in the state of Alabama, and Burns and Summitville, in the state of Tennessee, received by one of the complainant's members within two years prior to the filing of the complaint. Although the rates are alleged to be intrinsically unreasonable no evidence was offered in support of that contention, the case having resolved itself upon the record into an inquiry as to whether or not the rates in question are unduly preferential of New Orleans to the undue prejudice and disadvantage of Natchez within the meaning of section 3 of the act.

Certain statistics of class I roads in the southern district, with respect to the rates on live stock, grain, lumber, and other commodities, were offered in evidence by the complainant; but the rates on these commodities bear no recognized relation to the rates on lime and therefore are of little value for comparative purposes. The originating territory in Alabama, Tennessee, Georgia, and Kentucky has been divided by the carriers, for rate-making purposes, into 35 groups, and by its terms the complaint involves the rates from all these groups to Natchez. But as most of the lime used at Natchez comes from Legarde, Burns, and Summitville, the evidence of the complainant was confined largely to the rates from those three points as being representative. The short-line distances, the rates, the ton-mile and car-mile earnings from those points to Natchez and New Orleans, respectively, are shown in the subjoined table:

From—	To Natchez.				To New Orleans.			
	Short line.	Rate.	Revenue.		Short line.	Rate.	Revenue.	
			Per ton-mile.	Per car-mile.			Per ton-mile.	Per car-mile.
	Miles.		Mills.	Cents.	Miles.		Mills.	Cents.
Legarde, Ala.....	379	2.80	7.4	1.11	387	2.00	5.2	1.7.8
Burns, Tenn.....	498	2.80	5.6	1.8.4	556	2.10	3.8	1.5.7
Summitville, Tenn.....	548	2.80	5.1	1.7.7	547	2.10	3.8	1.5.7

¹ Based on minimum weight 30,000 pounds. Rates are stated in dollars per ton.

Traffic from the producing points in question reaches Natchez over the lines of both the Yazoo & Mississippi Valley and the Mississippi Central railroads. New Orleans is served from the producing territory by the lines of the Louisville & Nashville; the Yazoo & Mississippi Valley; the New Orleans & Northeastern; the New Orleans,

Mobile & Chicago; and the New Orleans Great Northern. New Orleans is reached from Legarde and many other points in Alabama and Tennessee by one-line hauls over the rails of the Louisville & Nashville. Natchez, on the other hand, may be reached only over two lines, and from many of the points involved three or more lines participate in the haul. The short-line distances to Natchez from a selected point in each of the originating rate groups range from 347 to 602 miles, and to New Orleans from 366 to 634 miles; the average distances being 461 miles to Natchez and 475 miles to New Orleans.

The class rates from Birmingham, Nashville, and Chattanooga are the same both to New Orleans and to Natchez; and on that ground the complainant contends that the rates on lime should be the same to Natchez as to New Orleans. But this does not necessarily follow when, as shown of record here, the circumstances and conditions of transportation to both points are not substantially the same. The earliest rates to Natchez and New Orleans were made in recognition of water competition on the Mississippi River, and to the extent that this influence still affects the rates on lime it is equally forceful at both Natchez and New Orleans. The Louisville & Nashville, however, with its direct one-line haul from this producing territory, was influenced to maintain a low level of rates to New Orleans by reason of (a) the competition between Tennessee and Alabama lime originating on lines of different carriers having independent routes to New Orleans; (b) the production of lime from oyster shells at New Orleans; and (c) by the competition more recently encountered at New Orleans with lime produced in Texas. Apart from these considerations New Orleans is an extensive distributive market for lime. None of these conditions and influences, however, are present at Natchez.

Upon all the facts of record we conclude and find that the rates on lime from producing points in Alabama, Tennessee, Georgia, and Kentucky to Natchez have not been shown to be unreasonable, unduly prejudicial, or unjustly discriminatory as compared with the rates in effect from the same points of origin to New Orleans.

The complaint must therefore be dismissed, and it will be so ordered.

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No. 8377.¹

BOARD OF RAILROAD COMMISSIONERS OF THE STATE
OF IOWA

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
ET AL.

Submitted February 12, 1916. Decided July 3, 1917.

Ocean-and-rail and rail-lake-and-rail class rates from upper Mississippi River cities, Dubuque, Iowa, to Keokuk, Iowa, inclusive, to points in trunk line territory found to be unduly discriminatory and prejudicial when compared with corresponding rates from the lower Mississippi River cities, Quincy, Ill., to St. Louis, Mo., inclusive, to the same points.

J. H. Henderson, Dwight N. Lewis, and W. B. Martin for complainants.

W. F. Dickinson, C. C. Wright, Parker McCollester, O. W. Dynes, A. P. Humburg, R. B. Scott, W. H. Bremner, and Winston, Payne, Strawn & Shaw for defendants.

REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

These cases were submitted together and will be dealt with in one report.

In No. 8377 complainant attacks the ocean-and-rail class rates, and in No. 8378, the rail-lake-and-rail class rates, applicable between the upper Mississippi River cities, Dubuque, Iowa, to Keokuk, Iowa, inclusive, and points in trunk line territory, as unreasonable and as unduly discriminatory and prejudicial when compared with the corresponding rates from and to the lower Mississippi River cities, Quincy, Ill., to St. Louis, Mo., inclusive. Reparation is asked in No. 8377. The allegations of unreasonableness *per se* were not pressed. Prior to the hearing the ocean-and-rail class rates to the upper and the lower Mississippi River cities westbound were made the same, and since the submission of the issues in No. 8378 the rail-lake-and-rail class rates from trunk line territory to those cities have also been made the same. Inasmuch as the gravamen of the com-

¹The report also embraces No. 8378, Board of Railroad Commissioners of the State of Iowa v. Atchison, Topeka & Santa Fe Railway Company et al.

plaints in each of these cases is the charge of undue prejudice the issues with respect to westbound rates were thus eliminated.

The ocean-and-rail class rates from the upper Mississippi River crossings and from St. Louis, Mo., to New York, N. Y., are shown in the following table. Rates are stated here and elsewhere in this report in cents per 100 pounds.

To New York from—	1	2	3	4	5	6
Upper cities.....	92.2	79.9	61.4	48.1	36.9	30.8
St. Louis.....	94.2	72.9	57.4	40.1	34.9	28.8
Difference.....	5	3	1	0	0	0

To Boston, Mass., the ocean-and-rail class rates from the upper cities and from St. Louis are the same for all classes. To Philadelphia and Baltimore the rates are lower from St. Louis by differences on a scale of 8 cents, first class. The all-rail class rates between both the upper and the lower Mississippi River crossings and New York are the following:

Class.....	1	2	3	4	5	6
Rate.....	92.2	79.9	61.4	48.1	36.9	30.8

Complainant has presented these cases as supplemental to *The Mississippi River Case*, 28 I. C. C., 47, 29 I. C. C., 530, and has filed in exhibit form parts of the record taken in that case. In our original report in that proceeding we found that the rates then in effect between the upper Mississippi River crossings in the state of Iowa and points east of the Indiana-Illinois state line were unreasonable and also unduly discriminatory when compared with the rates to and from the lower crossings. The maximum class rates found reasonable for application locally between New York and the upper Mississippi River crossings, made upon a scale of 90 cents, first class, exceeded the then effective St. Louis rates by the following:

Class.....	1	2	3	4	5	6
Excess.....	2	2	1	1	1	1

Following the Commission's reports in *The Five Per Cent Case*, 31 I. C. C., 351, 32 I. C. C., 325, the all-rail class rates between New York and the lower Mississippi River crossings were increased to the present scale of 92.2 cents, first class, and, as a result of a supplemental order entered December 29, 1914, in *The Mississippi River Case, supra*, the class rates to and from the upper crossings were made the same. A similar conclusion was reached in a case recently decided with respect to rates from and to certain points

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in central freight association territory, *Railroad Comm'rs of Iowa v. A. A. R. R. Co.*, 46 I. C. C., 20.

The rail-lake-and-rail class rates from the upper Mississippi River crossings and from St. Louis to New York are the following:

To New York from—	1	2	3	4	5	6
Upper cities.....	86	75.5	60	42.5	36	29
St. Louis.....	75.5	66	51.5	36	31	25
Difference.....	10.5	8.5	8.5	6.5	5	4

The ocean-and-rail and rail-lake-and-rail class rates applicable to westbound traffic from New York to the upper and lower crossings are these:

Class.....	1	2	3	4	5	6
Rate.....	82.2	71.9	55.4	39.1	32.9	27.8

Much of the record now before us consists of testimony, largely argumentative in character, with regard to the orders made in *The Mississippi River Case, supra*, particularly that entered December 29, 1914. Defendants have undertaken to show in evidence and on argument that our orders in that case were not justified. Those orders, however, are not open to review in these cases. While the eastbound tonnage over ocean-and-rail and rail-lake-and-rail routes is not large when compared with the westbound tonnage, we think that the conclusions which were reached in *The Mississippi River Case, supra*, and which are now reflected in the all-rail class rates in both directions and in the ocean-and-rail and rail-lake-and-rail class rates westbound, are properly applicable to the issues remaining for disposition in these cases. We find that the maintenance of higher ocean-and-rail and rail-lake-and-rail class rates, respectively, from the upper Mississippi River cities, Dubuque, Iowa, to Keokuk, Iowa, inclusive, to points in trunk line territory, than are contemporaneously maintained from the lower Mississippi River cities, Quincy, Ill., to St. Louis, Mo., inclusive, to the same points, results in unjust discrimination and prejudice against the said upper Mississippi River cities. In the absence of proof of damage reparation is denied. An order will be entered accordingly.

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INVESTIGATION AND SUSPENSION DOCKET No. 774.
BITUMINOUS COAL TO CENTRAL FREIGHT ASSOCIATION TERRITORY.¹

Submitted June 15, 1917. Decided July 13, 1917.

These cases, consolidated for hearing, involve: (1) the reasonableness and nondiscriminatory character of rates on bituminous coal from the Ohio mining districts to that portion of central freight association territory which is described and delimited in the report as "affected" territory; (2) the reasonableness and nondiscriminatory character of rates from the Ohio mining districts and from districts in Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Tennessee, collectively referred to in the report as the "Crescent," to certain interior cities in Michigan; (3) the propriety and reasonableness of increased rates proposed to be made effective from the Crescent to affected territory; (4) the proper relation of the rates, or the measure of the differential, to be observed between the rates from the Ohio and "inner Crescent" districts to affected territory; (5) the proper relation of rates, or the measure of the differential, to be observed between the rates from the Connellsville district in Pennsylvania and the Pittsburgh and other competitive districts in Pennsylvania; (6) the question whether or not the rates from the Pocahontas district in West Virginia to Canton, Ohio, should be the same as to Cleveland, Ohio.

Upon consideration of all the facts of record, *Held*:

1. That the rates under attack from the Ohio districts to affected territory are not unreasonable, unduly preferential, or prejudicial.
2. That the rates under attack from the Ohio and Crescent districts to the interior cities in Michigan are not unreasonable, but that they are unduly prejudicial against the interior Michigan cities and unduly preferential of Toledo, Ohio.
3. That the respondents have sustained the burden cast upon them by the statute to justify the proposed rates from the Crescent to affected territory, and from certain districts in the Crescent to Columbus, Ohio.
4. That the adjustment of rates on bituminous coal, based upon a differential of 25 cents per ton between the rates from the Ohio and inner Crescent districts to affected territory is, and for the future will be, unduly prejudicial to the Ohio districts and unduly preferential of the inner Crescent dis-

¹ This report also embraces the following complaints: No. 7662, Grand Rapids Association of Commerce et al. v. A. A. R. R. Co. et al.; No. 6951, Kellogg Toasted Corn Flakes Co. v. M. C. R. R. Co. et al.; No. 7089, Jackson Chamber of Commerce v. A. A. R. R. Co. et al.; No. 7371, Battle Creek Chamber of Commerce et al. v. B. & O. R. R. Co. et al.; No. 7667, Jackson Chamber of Commerce v. P. & L. E. R. R. Co. et al.; No. 7668, Battle Creek Chamber of Commerce et al. v. Pa. Co. et al.; No. 7669, Cartercar Co. et al. v. G. T. Ry. Co. of C. et al.; No. 7422, Cartercar Co. et al. v. K. & M. Ry. Co. et al.; No. 9117, Sunday Creek Coal Co. v. H. V. Ry. Co. et al.; No. 9137, Pittsburgh Vein Operators' Association of Ohio et al. v. B. & O. R. R. Co. et al.; and No. 9149, Black Diamond Co. et al. v. H. V. Ry. Co. et al.

tricts to the extent that the differential between the said Ohio and inner Crescent districts is less than 40 cents per ton, and that for the future it will be unduly prejudicial to the inner Crescent districts and unduly preferential of the Ohio districts to the extent that said differential is more than 40 cents per ton.

5. That (a) the rates from the Connellsville district should not exceed the rates from the Pittsburgh district to the portion of central freight association territory described in the report; (b) that the Connellsville district is not entitled to as low rates as the Pittsburgh district to that portion of affected territory described in the report as the Valleys and the Cleveland territory, but that the rates from the Connellsville district to Youngstown, Ohio, and points taking the same rates and to Cleveland, Ohio, and certain other points should not exceed the rates contemporaneously in effect from the Pittsburgh district by more than 8 cents and 6 cents per ton, respectively.
6. That the proposed rates from the Pocahontas district to Canton, Ohio, on the same basis as Cleveland, Ohio, have been justified.
7. That in determining the reasonableness of increased rates under a general group adjustment, in which a number of carriers participate, consideration should be given to the several lines serving the group, not alone to the line having the most favorable financial condition or which can handle the traffic at the lowest expense.
8. That the gradual extension of the Pittsburgh basis of rates to the later developed and more remote districts of the inner Crescent has been without proper consideration of transportation conditions or costs and has resulted in undue prejudice to the Ohio districts.
9. That in a proceeding of investigation and suspension, the general public has an interest; and the fact that respondents during a proceeding of investigation and suspension shift their original ground of justification is not material. The Commission must give consideration to all the material facts of record.
10. That respondents in readjusting their rates in conformity to the holdings herein may not increase any discriminations now existing by reason of fourth section departures in respect of which the Commission has entered no order.
11. That reparation must be denied.

W. S. Bronson, chairman of the respondents' committee of counsel.

W. S. Bronson and *J. S. Patterson* for Chesapeake & Ohio Railway Company.

W. N. King and *Leroy Allebach* for Kanawha & Michigan Railway Company.

Clyde Brown, *H. M. Griggs*, and *D. P. Connell* for New York Central lines.

W. W. Collin, jr., *A. P. Burgwin*, *Geo. B. Gordon*, and *Karl E. Burr* for Pennsylvania lines.

Robert F. Denison and *A. P. Martin* for Wheeling & Lake Erie Railway Company.

J. M. Dewberry and *William A. Northcutt* for Louisville & Nashville Railroad Company.

R. Walton Moore, Lucien A. Cocke, and Chas. D. Drayton for Norfolk & Western Railway Company.

William Ainsworth Parker for Baltimore & Ohio Railroad Company.

S. P. Woodside for Wabash Pittsburgh Terminal Railway Company and West Side Belt Railroad Company.

John F. Wilson and Fred C. Rector for Hocking Valley Railway Company.

George Patterson Boyle and H. B. Arnold for Sunday Creek Coal Company and Continental Coal Company of Ohio.

T. H. Hogsett and Tolles, Hogsett, Ginn & Morley for Pittsburgh Vein Operators' Association of Ohio.

Charles F. Chapman and Tracey, Chapman & Welles for George M. Jones Company.

O. E. Harrison for various southern Ohio coal operators.

A. C. Dustin and J. B. Putnam for Toledo Furnace Company and Canton Chamber of Commerce.

Frank A. Larish, E. L. Ewing, John B. Daish, J. Raymond Hoover, Francis L. Williams, and John C. Graham for various Michigan complainants and interveners.

Beaumont, Smith & Harris for Michigan Manufacturers Association and certain members thereof.

C. Andrade, jr., for the Connellsville Coal Tariff Association.

Davis, Bogart, Royse & Moore for the Indiana Bituminous Coal Operators' Association.

Chas. M. Johnston and Frank Lyon for the Pittsburgh Coal Company and Pittsburgh Coal Operators' Association.

S. B. Avis for Public Service Commission of West Virginia.

A. A. Lilly, attorney general of West Virginia, for West Virginia Coal Association.

Francis B. James for Public Service Commission of West Virginia, and various West Virginia, Kentucky, and Tennessee coal operators' associations and committees.

Z. T. Vinson for Public Service Commission of West Virginia, and West Virginia Coal Association.

John Marshall for West Virginia Board of Trade.

W. G. Dearing for Consolidation Coal Company of Kentucky.

James D. Francis for committee representing coal operators on the Chesapeake & Ohio Railway in West Virginia.

E. J. McVann and E. L. Greever for Coal Operators' Association on Norfolk & Western Railway.

William A. Glasgow, jr., and J. Walter Lord for Central West Virginia Coal Operators' Association.

J. F. Bullitt for Stonega Coal & Coke Company.

J. F. Cree for West Virginia Pittsburgh Coal Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

A statement of the facts in these cases and proposed conclusions based thereon was served upon the parties prior to, and served as the basis for, the argument.

STATEMENT OF THE CASES.

THE ORIGIN TERRITORY INVOLVED.

In a comprehensive sense the origin territory from which rates on bituminous coal are here involved comprises (1) all mining districts in the state of Ohio; (2) the districts in an extensive zone embracing substantially all that portion of the Appalachian coal-producing region that extends from western Pennsylvania through Maryland, West Virginia, southwestern Virginia, and into eastern Kentucky and Tennessee. This part of the Appalachian zone is shaped, in its geographical configuration, somewhat like a crescent, presenting toward the Ohio districts and central freight association territory its concave side. Because of this geographical feature, the districts within the zone are, collectively, and, in the parlance of transportation and the coal trade, commonly referred to as the "Crescent."

The rates from all this territory are made upon the group principle. Differences in the rates from the various districts depend upon fixed differentials. The various individual mining districts in the Crescent from which increased rates are proposed may be classified in two general groups: (1) Certain districts forming the inner or concave side of the Crescent, hereinafter referred to as the "inner Crescent," which take a differential over the Ohio districts to all destination territory here involved, of 25 cents per ton, uniformly; (2) certain other districts from which the rates are higher by fixed differentials than from the inner Crescent. The districts comprising the inner Crescent lie nearest to the destination territory and to the westward of the second group of individual districts which constitute an outer and parallel chain of mining districts that may for purpose of distinction be called the "outer Crescent." From the latter the rates,¹ present and proposed, are differentially higher than from the inner crescent by from 10 to 20 cents per ton. Midway between the Pittsburgh and the Meyersdale districts in the inner and outer Crescents, respectively, lies the Connellsville district from

¹ The term "present rates" as used throughout this report refers to the rates complained of and those in effect during the pendency of the proceedings and at the time the cases were submitted upon argument, and not to the rates which by reason of uniform increases in all coal rates have become effective since June 30, 1917.

which the rate westbound is in nearly all instances 15 cents higher than from the Pittsburgh district.

The principal district designations in the inner Crescent group are the Pittsburgh district in western Pennsylvania; the Fairmont and Kanawha districts in West Virginia; the Kenova-Thacker district lying partly in West Virginia and partly in Kentucky; the Elkhorn district in eastern Kentucky; and the Jellico district lying in eastern Kentucky and eastern Tennessee. The principal district designations in the outer Crescent are the Meyersdale district in Pennsylvania, the Cumberland-Piedmont district in Maryland and West Virginia, the Coal & Coke Railway, New River and Pocahontas districts in West Virginia, the Clinch Valley district in Virginia, and the Stonega district which lies in the pocket of southwestern Virginia and eastern Kentucky.

The Ohio origin districts are the Hocking, Jackson, Pomeroy, and Cambridge in southeastern Ohio; the No. 8 district in eastern Ohio lying just west of the Pittsburgh district of Pennsylvania; and the Middle, or Goshen, and Massillon districts in the northeastern quarter of Ohio. The Middle and Massillon districts are of minor importance, because the volume of coal shipped is insignificant, relatively, and the rates therefrom are always made differentially lower than the general scale from the other Ohio districts. They need not, therefore, be further considered.

There are numerous subdivisions of the before-mentioned individual districts to which it is unnecessary to refer at this time.

THE DESTINATION TERRITORY INVOLVED.

The territory to which the proposed rates apply is that portion of central freight association territory embraced in the northwestern quarter of Ohio; the northeastern quarter of Indiana; and the entire lower peninsula of Michigan. The territory thus limited will hereinafter be referred to as the affected territory in distinction from the nonaffected territory, so called, which comprises that portion of central freight association territory to which no increased rates are proposed in the tariffs here under suspension.

The rates as published in the tariffs are stated in dollars and cents per short ton and apply to specific points in central freight association territory which are not indicated in the tariffs by assignment to group or district designations as are the shipping points. Nevertheless, rates to any one destination point must have regard to rates to other points, so that the rates established to principal consuming points have largely determined the rates to intermediate points and to points in contiguous territory. Thus equal rates generally apply to a number of destination points which are, in effect,

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grouped. That they are not designated in the tariffs by groups is of no consequence, but it will be more convenient for the purpose of this report to consider the destination points as grouped and they will be so treated hereinafter except where, as in the case of some of the Michigan points and perhaps other instances, it may be necessary to consider them individually.

The origin territory is shown on the accompanying map in such manner as to indicate the group relationships and aid in readily understanding the rate adjustment later described in detail. The affected territory to which it is proposed to increase rates from the Crescent groups includes all central freight association territory north of and within the bounds of the irregular red line, extending from a point just east of Erie, Pa., and passing around north of Springfield, Ohio; north of Indianapolis and west of Lafayette, Ind., north to a point on the Indiana-Michigan state line, thence westerly to Lake Michigan at a point just east of Michigan City, Ind.

The destination groups are outlined in blue and the proposed rates from the inner Crescent to the respective destination groups are shown in black figures. The amount of the increases proposed appear in red figures, and the present rates from the Ohio districts to any given destination group may be ascertained by subtracting the amount of the differential—25 cents—plus the proposed increases shown in red, from the black figures. The Ohio districts are shown in red; the inner Crescent in blue; the outer Crescent in yellow; and Connellsville in brown.

In addition, the suspended schedules propose increased rates to Columbus, Ohio, but upon the hearing the carriers announced that they would withdraw the proposed rates from the Pittsburgh and Connellsville districts to Columbus, Ohio, and likewise that they would withdraw the proposed rates from the Pittsburgh and related Pennsylvania and Maryland districts and from the Fairmont and other Baltimore & Ohio Railroad districts in northern West Virginia to destinations east of but not including Sandusky, Ohio, to Erie, Pa. This has since been done. This territory, commonly referred to as the Valleys and Cleveland territory, lies north of the red line extending westerly from Erie to Galion, Ohio, and east of the blue line from Galion to Sandusky and can be readily ascertained by reference to the map.

THE ISSUES PRESENTED BY THE SEVERAL CONSOLIDATED CASES.

(a) *The investigation and suspension case.*—The question in the investigation and suspension case is the reasonableness and propriety of increased rates, 15 cents per ton higher, with a few exceptions,

than the present rates, which respondents propose to establish from each of the Crescent groups to the affected territory, save as modified to Columbus, Cleveland, and the Valleys territory.

The proposed rates from the Crescent were protested by numerous persons, firms, fraternal societies, municipal and commercial organizations and by associations of operators and shippers. Active opposition, however, was expressed principally through the associations of coal operators and the Michigan consumers and receivers of coal.

The period within which the Commission's suspension orders were effective expired November 19, 1916, and the tariffs were thereafter suspended by voluntary action of respondents until August 1, 1917.

(b) *The formal complaints.*—The formal complaints consolidated in the proceeding, and all listed in the margin, attack the present rates from the Ohio and certain of the Crescent districts to substantially all of affected territory, it being alleged that those rates are unreasonable and, in respect of certain relationships, unduly prejudicial to complainants.

There are two complementary sets of these formal complaints. Cases Nos. 9117, 9137, and 9149, considered as one set, were filed in behalf of different Ohio districts. These complaints alleged that the rates then in effect from the Ohio districts to practically all points in affected territory were unreasonable and also unduly prejudicial to Ohio and unduly preferential of West Virginia, Kentucky, and Tennessee districts in the relation of rates from the respective districts. The Ohio complaints do not include the Pittsburgh district in origin territory alleged to be preferred. The destination territory described in these complaints is substantially though not exactly coterminous with affected territory.

The other set consists of eight formal complaints which were filed either on behalf of Michigan consumers or of particular Michigan localities. Many other persons, firms, and commercial and municipal organizations intervened in behalf of complainants. These complaints, taken collectively, alleged that the rates from the Pittsburgh district, and from districts in West Virginia and Ohio, to Jackson, Battle Creek, Kalamazoo, Otsego, Plainwell, Vicksburg, Three Rivers, and Grand Rapids, all in the lower peninsula of Michigan, were unreasonable *per se* and by comparison with the rates from the same points of origin to Toledo, Ohio, and Detroit, Mich.; also that the rates were unduly prejudicial to the interior Michigan points and unduly preferential of Toledo and Detroit.

Certain of the petitions of intervention raise collateral issues that will be dealt with in connection with those raised in the formal complaints.

THE CARRIERS SERVING THE ORIGIN DISTRICTS.

In considering, as we later shall, the development of the various coal-producing districts and the carrier and market competition out of which grow what are unquestionably the more vital issues in this proceeding, it will be essential to keep in mind the principal originating carriers serving the respective districts. These are shown in Appendix A.

DEVELOPMENT OF THE LITIGATION.

THE MICHIGAN CASES.

In the original Michigan cases, four in number, the complainants attacked the rates from certain Ohio and West Virginia districts to particular interior Michigan points. Complainants drew their coal chiefly from the West Virginia and Ohio districts; they were directly interested in rates from those districts but not from the Pittsburgh district. The respondents in those cases defended the rates attacked largely on the ground of relationship, asserting, among other things, that the rates from West Virginia were based on the rates from the Pittsburgh district.

After the hearing in the original cases and while they were still pending the Commission promulgated its report on supplemental hearing in *The Five Per Cent Case*, 32 I. C. C., 325, 331, in which it referred to the rate on bituminous coal from the Pittsburgh district to Youngstown, Ohio, as the "key" rate. Conceiving, in view of the defense and the Commission's pronouncement in *The Five Per Cent Case*, that for technical reasons, at least, the rate from the Pittsburgh district should also have been brought in issue, four new complaints were filed for that purpose. There thus resulted two series of cases affecting rates to Michigan, all of which were consolidated and assigned for further hearing.

THE DIFFERENTIAL CONTROVERSY.

The measure of the differential between the rates from Ohio and the Crescent districts, particularly as between Ohio and certain districts in West Virginia, has been the subject of controversy between the shippers from these competing districts for a number of years. The carriers serving the Ohio districts were besought by their operators to increase the differentials. This could be done only by reducing the rates from Ohio, which the Ohio carriers insisted were already reasonably low, or by increasing rates from West Virginia, which the West Virginia lines were reluctant to do because of opposition from their shippers, or by a compromise measure involving both reductions and increases.

This controversy had more recently been brought to an acute state by internal conditions affecting mining operations in Ohio, and, to a lesser extent, in West Virginia, and by commercial conditions resulting from the severity of competition in the coal trade which affected all the districts.

In 1911 the Railroad Commission of Ohio had held that the long-established intrastate rate of \$1 per ton from the Hocking district to Toledo was unreasonable and ordered it reduced to 85 cents by the Hocking Valley Railway. The appeal of this carrier, the only defendant in that proceeding, from the Ohio commission's order was decided by the supreme court of Ohio in July, 1915, the order of the state commission being sustained. In the meantime, another complaint seeking a general reduction of rates on bituminous coal within that state had been brought before the Ohio commission by the District No. 6 (Ohio) United Mine Workers of America. Still another proceeding was instituted before the Ohio commission attacking the rates from the No. 8 district.

Apprehensive that these proceedings threatened not only the intrastate rates but, because of the relationship between them, the interstate rates as well, should the complainants before the Ohio commission finally prevail, and realizing also that the real issue attached to the measure of the differentials rather than to the rates themselves, the carriers sought the cooperation of the Ohio shippers in laying the entire matter before this Commission. An informal conference, sought by the carriers and certain Ohio and Pennsylvania shippers, was held in the Commission's offices in August, 1915. It was attended by executive and traffic officers of the principal Ohio, Pennsylvania, and West Virginia roads. Pittsburgh district and Ohio operators were also present and participated in the conference but West Virginia operators were, it seems, not invited by those who had sought the conference.

The Pittsburgh operators were dissatisfied with the amount of the differentials on coal to lake ports for transshipment—that is, on lake cargo coal—while the Ohio operators were dissatisfied with the amount of the differential on coal to central freight association territory, or commercial coal, so called, and the question of these differentials was the paramount subject of the conference.

The burden of the carriers' plea, with which in some respects the Chesapeake & Ohio Railway was not in full accord, but to which it now assents, was that the Commission should upon its own initiative institute an investigation for the purpose of determining the proper differentials on both lake cargo and commercial coal and fix the same without doing violence to the carriers' revenues. The parties were requested to formulate and submit in writing the statement of

facts and proposals that had been orally presented at the informal conference. To this end a statement was later prepared, signed by the carriers and filed with the Commission. The operators who had participated in the conference, however, refused to become parties to the statement and, if we correctly understand their attitude, repudiated it at the hearing in this proceeding. The situation confronting the carriers as a result of the controversy, amounting to a deadlock between the conflicting interests over the question of differentials is, so far as it is now material, set forth in the statement in Appendix B, page 149, *post*.

THE SUSPENSION.

Failing to secure the cooperation of the operators in their efforts to have the differential questions submitted to this Commission, the carriers, while the Michigan cases, which had been fully heard but not decided, were still pending, filed tariffs proposing to increase the rates from the Crescent to affected territory, the purpose being, (1) to protect the rates from Ohio and rates related to or dependent thereon; (2) increase the differential which many of the carriers, even the West Virginia lines, were agreed should be spread in order to give Ohio districts the benefit of their geographical location; and, (3) to increase the revenues upon the great tonnage from the Crescent. Since the tariffs proposed increases in rates involved in the pending Michigan cases, the latter were consolidated with the suspension proceeding. About the same time a complaint was filed by the Pittsburgh Coal Operators' Association attacking the rates on lake cargo coal from the Pittsburgh district to Ashtabula Harbor, Ohio. For the purpose of bringing the entire lake cargo rate adjustment under review, the Commission instituted an investigation upon its own motion into the reasonableness and propriety of, and the relationship between, those rates from the various districts. The Pittsburgh Coal Operators' Association complaint was consolidated with the general investigation. By stipulation of the parties the record in that proceeding and in this case may be used interchangeably. The Commission's report in the general investigation, *Lake Cargo Coal Rates*, will be found at page 159, *post*.

THE OHIO COMPLAINTS.

While the cases involving the rates on commercial coal, thus consolidated, were upon hearing, three different groups of Ohio operators each filed petitions of intervention attacking the reasonableness *per se* of the rates from Ohio to the affected territory, and as well the relationship of the rates between Ohio and West Virginia. One of the groups petitioned this Commission to enter upon a general

investigation of all interstate rates from Ohio and of the differential between Ohio and West Virginia. These petitions were denied, and the Ohio operators later filed the three specific complaints already mentioned, which were in turn consolidated with the cases already on hearing.

THE INDIANA SHIPPERS' INTERVENTION.

Miners and producers of coal in Indiana, owning and controlling substantially all of the coal-producing properties in that state, intervened through their association, the Indiana Bituminous Coal Operators' Association, for the purpose of protecting their interests in the event of any change in the relation of rates.

INTERVENTION OF CANTON, OHIO, CHAMBER OF COMMERCE.

The Canton, Ohio, Chamber of Commerce complains of the present adjustment of rates from the Pocahontas district to Canton and Cleveland. The present rate to Canton is 10 cents more than to Cleveland, and the Canton Chamber of Commerce was permitted to intervene for the purpose of prosecuting its contention that Canton should have the same rate as Cleveland.

INTERVENTION OF TOLEDO FURNACE COMPANY.

The Toledo Furnace Company, engaged at Toledo in the manufacture of pig iron and of coke in by-product ovens, intervened for the purpose of securing a decision upon its contention that the rates on commercial coal from districts in the Crescent to Toledo are unreasonable and unduly prejudicial to the extent that they exceed the rates contemporaneously maintained on coal from the same district to Toledo for transshipment beyond over the great lakes. This contention seems to have been abandoned; in any event, it was not prosecuted to a conclusion. No decision is possible upon the record made, and no further consideration will therefore be given to it at this time.

CONNELLSVILLE INTERVENTION.

The Connellsville district adjoins the Pittsburgh, Westmoreland, and Greensburg districts of Pennsylvania on the east and south. The rate to all central freight association territory is 15 cents higher from Connellsville than from the districts named. The Connellsville Coal Tariff Association was permitted to intervene in the proceeding for the purpose of bringing up for adjudication the propriety of this differential, it being contended, in short, that the differential against Connellsville should be withdrawn and that the district should be merged with Pittsburgh. The issue with respect to the question of

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relationship as between Connellsville and the other districts named is not limited to the rates to affected territory but relates to the propriety of the differential relationship between Connellsville and the other districts named in respect to central freight association territory generally.

THE RATES INVOLVED.

PRESENT AND PROPOSED RATES AND DIFFERENTIALS.

The respondents have selected for purposes of comparisons and analyses, rates to certain principal consuming points in both affected and nonaffected territories, which are asserted to be typical and fairly representative of the respective territories. Analytical statements of the rates to these points were filed of record showing from each of the principal districts in each of the three general origin groups, i. e., Ohio and the Crescent groups, (a) the average distances via the short routes, the long routes, and the average of all routes; (b) the present rate; (c) the revenue per ton-mile thereunder via the short routes, the long routes, and the average via all routes; and, (d), from the Crescent to affected territory, the revenue per ton-mile under the proposed rates.

Composite statements, showing these average distances and per ton-mile earnings under the present rates from the Ohio districts and under the present and proposed rates from the Crescent districts, to representative points in both affected and nonaffected territories are shown in tables in the appendices as follows: From the Ohio group, Appendix C; from the inner Crescent group, Appendix D; from the outer Crescent group, Appendix E. For convenient reference, however, the present and proposed rates to the representative points and the differentials between the groups under the present and proposed rates are shown in the following table, in which have also been incorporated statements of the rates to representative points in nonaffected territory.

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TABLE NO. 1.

To—	From Ohio group; present rate.	From inner Crescent group.				From outer Crescent group.			
		Present rate.	Proposed rate.	Present differential over Ohio.	Proposed differential over Ohio.	Present rate.	Proposed rate.	Present differential over inner Crescent group.	Proposed differential over inner Crescent group.
AFFECTED TERRITORY.									
Toledo, Ohio.....	\$1.00	\$1.25	\$1.40	\$0.25	\$0.40	\$1.45	\$1.60	\$0.20	\$0.20
Detroit, Mich.....	1.15	1.40	1.55	.25	.40	1.60	1.75	.20	.20
Bay City, Mich.....	1.65	1.90	2.05	.25	.40	2.10	2.25	.20	.20
Grand Rapids, Mich.....	1.65	1.90	2.05	.25	.40	2.10	2.25	.20	.20
Jackson, Mich.....	1.35	1.60	1.75	.25	.40	1.80	1.95	.20	.20
Kalamazoo, Mich.....	1.60	1.85	2.00	.25	.40	2.05	2.20	.20	.20
Mackinaw City, Mich.....	2.15	2.40	2.55	.25	.40	2.60	2.75	.20	.20
Muskegon, Mich.....	1.65	1.90	2.05	.25	.40	2.10	2.25	.20	.20
Fort Wayne, Ind.....	1.85	1.60	1.75	.25	.40	1.80	1.95	.20	.20
Lafayette, Ind.....	1.60	1.75	1.85	.25	.25	1.90	2.00	.15	.15
Marion, Ind.....	1.30	1.55	1.65	.25	.25	1.70	1.80	.15	.15
South Bend, Ind.....	1.55	1.80	1.90	.25	.25	1.95	2.05	.15	.15
Lima, Ohio.....	1.00	1.25	1.40	.25	.40	1.45	1.60	.20	.20
Columbus, Ohio.....						1.15	1.25		
NONAFFECTED TERRITORY.									
Chicago, Ill.....	1.65	1.90		.25		2.05		.15	
Champaign, Ill.....	1.85	2.10		.25		2.25		.15	
Peoria, Ill.....	1.85	2.10		.25		2.25		.15	
St. Louis, Mo.....	2.10	2.35		.25		2.60		.15	
Indianapolis, Ind.....	1.30	1.55		.25		1.65		.10	
Vincennes, Ind.....	1.65	1.90		.25		2.05		.15	
Terre Haute, Ind.....	1.65	1.90		.25		2.05		.15	
Dayton, Ohio.....	1.00	1.25		.25		1.35		.10	

¹ Rate 85 cents from Hooking district via the Hooking Valley Railway only established July 28, 1914, pursuant to order of Public Service Commission of Ohio.

² Rate from Connellsville group, proper, 5 cents less.

³ Rate from Connellsville group, proper, 5 cents higher.

The varying differentials over the Pittsburgh district from the other districts in the Crescent to what, as we shall later see, is called Pittsburgh short-haul territory—that is, the Valleys and Cleveland—will appear from the following statement comparing the present and proposed rates to Cleveland from the Connellsville and Crescent districts with the present rates from the Pittsburgh and Fairmont districts, the proposed rates from the latter districts having, as stated, been withdrawn:

46 I. C. C.

TABLE No. 2.—Statement of present and proposed rates on bituminous coal from districts in the inner and outer Crescent groups and from the Connellsville district to Cleveland, Ohio, showing also the differentials over Pittsburgh district, from the several districts under the present and proposed rates.

To Cleveland, Ohio, from—	Present rate.	Proposed rate.	Differential over Pittsburgh district under present rates.	Differential over Pittsburgh district under proposed rates.
Inner Crescent group:				
Pittsburgh.....	\$1.00	(¹)	.....	.....
Fairmont.....	1.15	(¹)	\$0.15	(¹)
Kanawha.....				
Kenova-Thacker and mines in eastern Kentucky and Tennessee taking same rates as Kanawha.....	1.25	\$1.40	.25	\$0.40
Connellsville district.....	1.15	(¹)	.15	(¹)
Outer Crescent group:				
Meyersdale.....	1.25	(¹)	.25	(¹)
Cumberland-Piedmont.....	1.25	(¹)	.25	(¹)
New River.....				
Pocahontas.....				
Tug River.....	1.45	1.60	.45	.60
Clinch Valley.....				

¹ Proposed increased rates withdrawn leaving differential unchanged.

The rates to Columbus, Ohio, which is in short-haul territory for some of the origin districts in the inner Crescent group, disclose still other variations in the relation of rates between Pittsburgh and the other districts in the group. Since the proposed increases from Pittsburgh and Connellsville have been withdrawn, while those from Fairmont, Kanawha, and certain points in eastern Kentucky still stand, the result, should the proposed rates become effective, would be to eliminate the present differential against Pittsburgh.

TABLE No. 3.—Statement of present and proposed rates on bituminous coal from the districts in the inner and outer Crescent groups and from the Connellsville district to Columbus, Ohio, showing also the differentials over (or under) the Pittsburgh district from the other several districts under the present and proposed rates.

To Columbus, Ohio, from—	Present rate.	Proposed rate.	Differential over Pittsburgh district under present rates.	Differential over Pittsburgh district under proposed rates.
Inner Crescent group:				
Pittsburgh.....	\$1.00	(¹)	.....	.....
Fairmont.....				
Kanawha, Kenova-Thacker.....	.90	1.00	*\$0.10	None.
Kentucky, including Big Sandy, S. V. & E. Ry., and C. & O. Ry.....				
Southeastern Kentucky and Tennessee mines.....	1.25	(¹)	.25	(¹)
Connellsville district.....	1.15	(¹)	.15	\$0.15
Outer Crescent.....	1.15	1.25	.15	.25

¹ Proposed increased rates withdrawn from Connellsville and Pittsburgh.

* Under Pittsburgh.

¹ No increase proposed in rates; differential remains unchanged.

ORDER OF STUDY.

In view of the order in which the litigation affecting this general rate structure has developed, the theories advanced as to its basis and evolution, the intimate interrelationship of the rates and the imperative demands for certain material readjustments therein, it seems logical and appropriate to consider in order—

1. The reasonableness of the present rates from the Ohio and Crescent groups:

(a) The Ohio complaints.

(b) The Michigan complaints.

2. The reasonableness of the proposed rates from the Crescent.

3. The questions of relationship in the rates as between—

(a) Ohio and the Crescent—the differential.

(b) Pittsburgh and Connellsville.

BASIS OF THE PRESENT RATE STRUCTURE.

In a study of the rate adjustment here under consideration, involving as it does not only questions of reasonableness in the rates themselves but also perplexing questions of relationship concerning which there is no agreement and scarcely any harmony of views as between the various parties having diverse and conflicting interests, it will conduce to a clearer understanding if we first look to the general basis of the present rate structure. The testimony, which in this respect is not successfully controverted, shows that for many years the constituent districts of each of the respective Crescent groups have been considered as one extensive group for the purpose of making rates to central freight association territory. The rates from all districts in the entire producing area—Ohio and the Crescent—are intimately related and constitute one great rate structure. The geographical situation and competitive influences, both as between carriers and as between shippers from the different origin districts, have resulted in equal rates from all the districts in each respective general group to all central freight association territory, except in some instances, where, because of their proximity, some consuming markets are naturally tributary to particular origin districts. Illustrative of such are the Valleys and Cleveland territory in Ohio, which are near the Pittsburgh district, and from which, as we have just seen, the rates are lower than from the more remote districts in the inner Crescent; also Columbus, Ohio, to which the present rates from Kanawha and Fairmont districts are 10 cents less than from the Pittsburgh district. Because of this intimate rate relationship, it was testified, a change in rate from one point in a group will automatically operate to make a like change in the rates from other parts of the group.

THE KEY RATE.

There is some question between the carriers and the shippers as to what rate, or set of rates, constitutes the "key" to the adjustment. According to the testimony of respondents' witnesses in the hearing in the suspension case, the rate from Hocking to Toledo was made the same as that from Pittsburgh to Cleveland at a very early date. These lake cities being in keen competition with each other, the manufacturers using coal were thereby put on a parity in the matter of rates without regard to the fact that the longer haul from the Ohio groups to Toledo was then computed at 207 miles as against the present average haul of 220 miles, while the distance from the Pittsburgh district to Cleveland was but 160 miles.

The entire rate structure is graphically depicted upon the accompanying map in explaining which the witness who introduced it stated:

This exhibit is filed for two purposes: First, to show how the structure of rates on coal in the C. F. A. was built, and the basing rates from which the structure was formed; second, to show the collateral effect of any changes in the base rates and in a general way the results from the spread in the differential by reductions in the base rates.

The wide blue lines extending from the Hocking district and the No. 8 district in Ohio to Toledo and from the Pittsburgh district to Cleveland are the base rates, being the foundation upon which the entire coal-rate structure was built up and rests. These base rates have always been the same in amounts. The wide red line from the No. 8 district to Cleveland has always been measured by the wide blue lines from the Pittsburgh district to Cleveland and from the No. 8 district to Toledo, the difference in the rate, for years, having been 10 cents per ton under either of these rates.

There have been drawn from Toledo red lines to the various groups in northern Indiana and Michigan and to the Chicago group, and there has been shown in these groups the amounts the groups take over the Toledo rate. These red lines are run approximately to the center of the groups, but there is no particular significance in the points at which they terminate, nor in their length, although it will be noted roughly by the eye that the lengths of these lines correspond somewhat closely to the amounts the different groups take over the Toledo rate. * * *

I have shown by red lines from the Hocking district, the districts in the Crescent which take the 25-cent differential over Ohio rates to the central freight association territory, which, in my opinion, will give a graphic idea of the extension of the Pittsburgh districts as has been explained in previous testimony and clearly shown by exhibits.

The narrow blue lines from the Pittsburgh district to points on the lake front, namely, Fairport, Ashtabula, Conneaut, and Erie, indicate the points that take the same rate from the Pittsburgh district as Cleveland, Ohio. * * *

These relationships have existed as far back as there is substantial record to develop it, and it may be confidently stated that in the construction of this rate fabric it seems to have been the purpose of all the various interests involved in its maintenance to have followed consistently this plan for the equitable distribution of this vast tonnage over the great consuming territory between the Niagara frontier and Lake Michigan.

The rates are the same from all Ohio districts, except Middle and Massillon, to interstate points in central freight association territory. It is stated of record that until changed by the recent decisions of the Ohio commission the rates were the same from all Ohio mines to the intrastate destinations in the northwestern quarter of Ohio north of the red line and west of the blue line from Sandusky to Galion. Pending the litigation in the state courts, they are still the same from all Ohio mines to these intrastate points except from that portion of the Hocking district served by the Hocking Valley Railway.

The Ohio-Toledo rate is described by respondents' leading witness in these proceedings as "the key rate of the great rate structure here under consideration." Speaking of the relative influence of the rates from the different origin groups upon the rate structure as a whole, the same witness testified:

The Ohio group being nearer to the point of destination, obviously the Ohio rates would exercise stronger influence upon the entire rate structure than would the Pittsburgh-Tennessee (Inner Crescent) rates. In other words, the Pittsburgh-Tennessee rates may, in a sense, be said to be built over the Ohio rates rather than the Ohio rates built under the Pittsburgh-Tennessee rates.

The force of this hypothesis seems unescapable and we must regard the Ohio rates as controlling in the general rate structure.

HISTORY OF THE DIFFERENTIAL ADJUSTMENT.

The Pittsburgh field, in point of time as to development, is the oldest of the several districts named. A differential seems to have been first fixed as between the rates from the Pittsburgh and Hocking districts to Chicago. The testimony indicates that prior to 1886 the rates from the Ohio and Pittsburgh fields were practically the same, but no definitely fixed relationship existed. In that year a conference of carriers' representatives was held in Chicago, where, after consideration given to relative distances, competition and other conditions affecting transportation from the respective fields, together with the economic and other conditions of mining in the respective districts, so far as it was thought proper to consider such conditions, a differential of 25 cents in favor of the Hocking district was agreed upon as just and fair. Competitive conditions are said to have determined that Fairmont and the other districts later developed in the inner Crescent group should have equal rates with Pittsburgh.

The first rates established from some of the later developed districts in the inner Crescent were not in entire consonance with the basic differential arrangement. From some the differential was greater, from others less, than the recognized basis of 25 cents, Pittsburgh over Ohio, so that from some of the districts the rates were subsequently raised to bring them up to the level of the Pitts-

burgh basis while from others they were reduced. Protestants direct attention to these fluctuations in an historical review of the rate changes as evidence that the Crescent rates are not, as respondents contend, unreasonably low, but that they were in fact raised as a result of concerted action among the carriers and must be presumed to be reasonable. This, however, does not eliminate the presence of competition in the final fixing of the adjustment.

These fluctuations serve but to show that there was a recognized level upon which the forces were seeking to place all rates. They were but the minor undulations attending the subsidence of the structure to a comparatively firm basis that has remained unchanged in any material degree during the past 14 years.

There is little or no evidence of record to show what influences other than commercial considerations involving the qualities of the various coals determined the differentials as between the inner and outer Crescents. There are certain variations in the differentials from the latter group so that they do not have the unvarying uniformity that characterizes the differentials between Ohio and the inner Crescent, which are not only the same but have been consistently maintained from their establishment and have been adopted by the transportation lines which have entered the fields since they were fixed.

INSTABILITY OF EARLIER RATES.

Though the differentials, as such, have been consistently maintained, it has been otherwise with the integrity of the rates themselves. One of respondents' witnesses, long connected with the service and familiar with the traffic and the history of its development, testified that the freight rates from the Ohio, West Virginia, and Pennsylvania fields, prior to 1908 were in "a thoroughly demoralized condition. There were rebates and frequent departures from published tariffs." The result was lower net rates to most points than the tariffs provided. How much these practices affected the published rates is not known nor is it now material. No changes of importance have taken place in the general adjustment since 1908 when the rates were put upon the present basis and open rebating is said to have ceased.

THE DIFFERENTIALS IN EFFECT AND AS PROPOSED.

It will be observed in respect of the differentials between the Ohio and the inner Crescent groups, first, that under the present rates the differential is uniformly 25 cents to all points in both affected and nonaffected territories. Second, that under the proposed rates the differential would be 40 cents to all points in affected territory except Lafayette, Marion, and South Bend, Ind. To these points the differential would be only 35 cents. The variation at these points

is explained by the fact that in order to avoid fourth section violations the increase proposed to them is only 10 cents per ton, while to the other points named it is 15 cents. In respect of the differential between other groups, it will be observed, first, that under the present rates the differential from the Connellsville district is consistently 15 cents over Pittsburgh district to all points in both affected and non-affected territories. Second, that the differential from the outer Crescent is 20 cents over the inner Crescent to all points in affected territory except Lafayette, Marion, and South Bend, Ind., to which latter points, and to all points in nonaffected territory, the differential under the present rates is 15 cents, or the same as from Connellsville district. Third, under the proposed rates the differentials from Connellsville over Pittsburgh, and from the outer Crescent over the inner Crescent would remain unchanged. Fourth, that if the proposed rates become effective the uniform 25-cent differential adjustment which has obtained between the Ohio and Crescent groups to all central freight association territory for so many years would be broken up and there will be created a new area; that is, affected territory, to which, upon the basis of the rates proposed, the differential would become generally 40 cents, while to the remainder of central freight association territory, termed nonaffected territory, the present 25-cent differential would be continued.

REASONS FOR DIFFERENTIATING BETWEEN AFFECTED AND NONAFFECTED TERRITORY.

Respondents contend that the increase in the differential against the Crescent to a part only of central freight association territory is justified by a dissimilarity in circumstances and conditions; that controlling competition from other sources than the Ohio mines operates to prevent a like increase in the rates, and therefore in the differential, to nonaffected territory. For instance, Chicago, the most important coal market in nonaffected territory, consuming about 25,000,000 tons or more per annum, receives about 1,000,000 tons via lake; 12,000,000 tons from Illinois and Indiana mines, and from Ohio and the Crescent districts the remainder, of which about 5,500,000 is so-called smokeless or semibituminous coal from the Pocahontas and New River districts.

Indiana coal has the call in the important markets of Indianapolis and the so-called gas belt of Indiana. Water-borne coal upon the Ohio River is said to depress the rates to Cincinnati, and the evidence to this effect is corroborated by that in another case. *Taylor v. N. & W. Ry. Co.*, 25 I. C. C., 613, 617. It was estimated by the respondents' leading witness that not more than one-third of the coal consumed in Cincinnati reaches that market via rail, notwithstanding that the carriers from the Kentucky and West Virginia mines

make what are asserted to be very low rates to that point. This water-borne coal, it is said, likewise affects the competition at Dayton, Ohio; at Indianapolis and even as far north as Muncie and Kokomo, Ind. The present rate from the inner Crescent to Indianapolis is \$1.55, while the rate to Indianapolis from Cincinnati on ex river coal is only 60 cents.

Generally speaking, the evidence seems to bear out respondents' assertion that to nonaffected territory the rates from the Crescent are held down by competition other than that of the Ohio coals, and that no such condition exists in affected territory, although some of the protestants' witnesses testified that Illinois and Indiana coals do actually compete at Fort Wayne, Ind., and at points in the southeastern peninsula of Michigan. The record shows definitely that the tonnage of Ohio and Crescent coals used at Fort Wayne greatly exceeds that from Illinois and Indiana and that only a negligible quantity of Illinois and Indiana coal gets into the state of Michigan, the tonnage from all mines in those states to Michigan points having declined from 60,873 tons in 1913 to 15,237 tons in 1916.

There is a limited production of coal in the so-called Saginaw Basin of Michigan, but the coal is of such inferior quality that it is not transported any great distance. The production, which never exceeded 2,000,000 tons annually, amounted to only 1,283,000 tons in 1914.

It is contended by some of the complainants and protestants that the reasons advanced for not increasing the rates to Chicago are equally operative at Detroit, and that to increase the rates to the latter point while not increasing them to Chicago works a violation of section 8 of the act. The contention, however, is principally theoretical and is not sustained by evidence of record. In respect of the broader question whether undue prejudice results from the proposed division of central freight association territory, it sufficiently appears that the circumstances and conditions existing in affected territory are substantially dissimilar from those existing in non-affected territory.

ARE THE PRESENT RATES FROM OHIO AND THE CRESCENT TO AFFECTED TERRITORY UNREASONABLE?

While the burden of proof to sustain the allegation that the Ohio rates are unreasonable rests upon complainants in the Ohio and Michigan cases, the respondents, by reason of the exigencies of their case, were obliged to go first in the presentation of evidence bearing upon the reasonableness of the Ohio rates; and it will be more convenient to consider the evidence in the order in which it was introduced.

The fundamental theory of the respondents as expressed in their contentions in respect of the reasonableness of these rates is: (a) That the rates from Ohio to the affected territory are reasonably low; and (b) that the rates from the Crescent to the same territory are abnormally low.

THE REASONABLENESS OF THE OHIO RATES.

The key rates of \$1 from Ohio mines to Toledo and of \$1.65 to Chicago are said to control the measure of the rates from Ohio districts to northern Indiana and Michigan points. If this be true, the same rates must, by virtue of the differential adjustment, likewise control the rates from the Crescent to the same destination territory. A complete analysis of the key rate of \$1 from Ohio districts to Toledo is presented in Appendix F, page 157, *post*. This rate is now in effect from all Ohio districts shown in the appendix, except part of the Hocking district, from which, as heretofore explained, by order of the Public Utilities Commission of Ohio the rate via the Hocking Valley Railroad is 85 cents. An examination of the two appendices will show how the analyses in Appendix F are incorporated into Appendix C. The latter embodies similar analyses of the rates from Ohio districts to the 12 other representative points in affected territory, and the method by which the results shown in the appendices are ascertained is believed to require no further explanation.

The carriers undertook to show that the rates from the Ohio districts, as thus analyzed, are reasonably low.

(1) These rates are compared with rates which the respondents assert were approved or prescribed by the Commission in other cases, in which rates on coal were involved for hauls within official classification territory for substantially similar distances. Protestants contend that the carriers have misapplied the cases cited and that the rates referred to were not prescribed or even approved by the Commission, except in one or two cases. However, our examination of the reports in these cases shows that the carriers' interpretation is substantially correct in all instances except two. Rejecting these and also those cases involving rates on bituminous coal from West Virginia districts to Virginia and southeastern points, the comparison with rates from Ohio districts to Toledo and to certain interstate points in affected territory is set forth in the following table from which it appears that the ton-mile earnings yielded by the rates prescribed or approved by the Commission are generally higher than those yielded by the present Ohio rates:

(2) The respondents compare rates from the Ohio districts to the representative points in affected territory with eastbound rates on coal from Pennsylvania and West Virginia districts to points in official classification territory for distances similar to the average distances from the Ohio districts. The eastbound rates being stated in dollars and cents per gross ton, the equivalent rate per net ton and per ton-mile earnings thereunder are shown in the table below, which is compiled by selection of a few of the rates shown in the respondents' voluminous exhibit:

TABLE No. 5.—*Comparisons of rates from Ohio to points in affected territory with eastbound rates from Pennsylvania and West Virginia districts to equivalent points in official classification territory.*

OHIO TO TOLEDO, OHIO.

Average miles.	Rates.		Revenue per net ton-mile.	Region from—	To—
	Gross ton.	Net ton.			
220	.....	\$1.00	<i>Mills.</i> 4.55	Ohio.....	Toledo, Ohio.
221	\$1.50	1.34	6.1	Clearfield.....	Reading, Pa.
216	1.50	1.34	6.3	.....do.....	York-Lancaster group.
229	1.75	1.56	6.82	Pittsburgh-Youghiogheny....	Chambersburg, Pa.
224	1.30	1.16	5.18	Meyersdale.....	Harrisburg, Pa.
225	1.50	1.34	5.96	.....do.....	York, Pa.

OHIO TO LIMA, OHIO.

220	.....	\$1.00	<i>Mills.</i> 4.38	Ohio.....	Lima, Ohio.
228	\$1.50	1.34	5.6	Clearfield.....	Coatesville, Pa.
240	1.50	1.34	5.6	.....do.....	Pottstown, Pa.
224	1.70	1.52	6.78	West Virginia.....	Harpers Ferry, W. Va.
228	1.70	1.52	6.66	.....do.....	Millville, W. Va.

OHIO TO BAY CITY, MICH.

339	.....	\$1.65	<i>Mills.</i> 4.24	Ohio.....	Bay City, Mich.
390	\$1.95	1.74	4.46	Clearfield.....	Cape May, N. J.
367	1.95	1.74	4.74	.....do.....	Atlantic City, N. J.
395	1.95	1.65	4.18	Pittsburgh-Youghiogheny....	Philadelphia, Pa.
383	1.95	1.74	4.55	West Virginia.....	South Bethlehem, Pa.

OHIO TO DETROIT, MICH.

308	.....	\$1.15	<i>Mills.</i> 3.80	Ohio.....	Detroit, Mich.
300	\$1.75	1.56	5.2	Clearfield.....	Martins Creek, Pa.
299	1.85	1.65	5.53	Pittsburgh-Youghiogheny....	Baltimore, Md.
304	1.85	1.65	5.43	West Virginia.....	Do.
312	1.60	1.43	4.58	Meyersdale.....	Wilmington, Del.

OHIO TO GRAND RAPIDS, MICH.

437	.....	\$1.65	<i>Mills.</i> 3.98	Ohio.....	Grand Rapids, Mich.
430	\$1.60	1.70	3.9	Clearfield.....	Albany, N. Y.
432	2.10	1.88	4.45	Westmoreland.....	Utica, N. Y.
434	2.00	1.79	4.31	Pittsburgh-Youghiogheny....	Trenton, N. J.
439	2.00	1.79	4.18	West Virginia.....	Do.

TABLE No. 5.—Comparisons of rates from Ohio, etc.—Continued.

OHIO TO JACKSON, MICH.

Average miles.	Rates.		Revenue per net ton.	no-	To—
	Gross ton.	Net ton.			
236	-----	\$1.35	<i>Mile.</i> 4.02	Ohio.....	Jackson, Mich.
230	\$1.75	1.66	4.8	Clearfield.....	Auburn, N. Y.
227	1.60	1.43	4.24	Meyersdale.....	Philadelphia, Pa.
242	1.75	1.66	4.57	West Virginia.....	Reading, Pa.
233	1.75	1.66	4.70	Meyersdale.....	Easton, Pa.

OHIO TO KALAMAZOO, MICH.

402	-----	\$1.60	<i>Mile.</i> 3.98	Ohio.....	Kalamazoo, Mich.
405	\$1.90	1.70	4.2	Clearfield.....	Albany, N. Y.
396	2.00	1.79	4.51	West Virginia.....	Phillipsburg, N. J.
412	2.00	1.79	4.33	.....do.....	Martins Creek, Pa.
399	1.95	1.74	4.06	Meyersdale.....	Paterson, N. J.

OHIO TO MACKINAW CITY, MICH.

698	-----	\$2.15	<i>Mile.</i> 3.54	Ohio.....	Mackinaw City, Mich.
577	\$2.60	2.32	4.02	Clearfield.....	Boston, Mass.
589	2.75	2.46	4.10	Pittsburgh-Youghiogheny.....	Pittsfield, Mass.
614	2.75	2.46	4.00	.....do.....	Hartford, Conn.
608	2.85	2.54	4.23	West Virginia.....	Meriden, Conn.
565	2.60	2.32	4.11	Meyersdale.....	Springfield, Mass.

OHIO TO MUSKEGON, MICH.

464	-----	\$1.65	<i>Mile.</i> 3.55	Ohio.....	Muskegon, Mich.
475	\$1.90	1.70	3.5	Clearfield.....	Albany, N. Y.
463	2.10	1.83	4.05	Pittsburgh-Youghiogheny.....	Jersey City, N. J.
460	2.10	1.83	4.07	West Virginia.....	Newark, N. J.
468	2.10	1.83	4.01	.....do.....	Jersey City, N. J.

OHIO TO FORT WAYNE, IND.

302	-----	\$1.35	<i>Mile.</i> 4.47	Ohio.....	Fort Wayne, Ind.
300	\$1.75	1.66	5.2	Clearfield.....	Trenton, N. J.
299	1.85	1.65	5.53	Pittsburgh-Youghiogheny.....	Baltimore, Md.
313	1.75	1.66	4.90	West Virginia.....	Lebanon, Pa.
312	1.60	1.43	4.58	Meyersdale.....	Wilmington, Del.

OHIO TO LAFAYETTE, IND.

397	-----	\$1.50	<i>Mile.</i> 3.78	Ohio.....	Lafayette, Ind.
405	\$1.60	1.70	4.2	Clearfield.....	Albany, N. Y.
391	2.00	1.79	4.57	Pittsburgh-Youghiogheny.....	Phillipsburg, N. J.
395	2.00	1.79	4.53	West Virginia.....	Easton, Pa.
397	1.85	1.65	4.16	Meyersdale.....	Newark, N. J.

OHIO TO MARION, IND.

327	-----	\$1.30	<i>Mile.</i> 3.98	Ohio.....	Marion, Ind.
318	\$1.65	1.65	5.18	West Virginia.....	Sparrows Point, Md.
322	1.75	1.66	4.70	Meyersdale.....	Easton, Pa.
320	1.70	1.62	4.74	.....do.....	South Bethlehem, Pa.
308	1.75	1.66	5.07	Pittsburgh-Youghiogheny.....	Lebanon, Pa.

OHIO TO SOUTH BEND, IND.

415	-----	\$1.55	<i>Mile.</i> 3.73	Ohio.....	South Bend, Ind.
406	\$1.60	1.70	4.2	Clearfield.....	Albany, N. Y.
423	2.10	1.88	4.45	Westmoreland.....	Utica, N. Y.
424	2.00	1.79	4.21	Pittsburgh-Youghiogheny.....	Trenton, N. J.
412	2.00	1.79	4.33	West Virginia.....	Martins Creek, Pa.

The eastern points shown in the table above were selected from among numerous others. While the record does not show what the facts are, it must be assumed that there is a considerable volume of tonnage from the origin districts to the eastern points shown. Operating conditions, involving a haul over the Alleghenies, are certainly not more favorable than those attending the hauls from the Ohio districts to the representative points in affected territory, in which no particular physical difficulties are present. To the eastern points mentioned and to all others shown in the respondents' exhibit, the rates and the revenue per ton-mile are higher for equal distances from the West Virginia and Pennsylvania districts than from Ohio to affected territory. This is true even of the intrastate rates. The intrastate rates in Ohio, to Toledo and Lima, as shown in the comparisons, are lower than the intrastate rates in Pennsylvania and West Virginia.

(3) The respondents compare the rates from Ohio to the representative points in affected territory with the rates from mines in Illinois and Indiana to Chicago and to equidistant representative points in Indiana and Michigan. Of these comparisons it may be said that the distances from the Illinois-Indiana mines to Chicago are less, and the rates lower, than from Ohio mines to the representative points in affected territory. The only Indiana point in affected territory used in these comparisons is Butler, in the extreme northeastern part of the state, in territory to which, according to respondents' evidence, no Illinois-Indiana coal moves. The remaining points are representative Michigan points to which the rates are higher than from Ohio, but to which, as we have seen, no considerable volume of Illinois-Indiana coal moves. These facts impair the value of the comparisons, which need not be further considered.

(4) Respondents compare the coal rates from Ohio to representative points in affected territory with rates on other low-grade commodities, such as brick, sand, gravel, clay, cement, stone, salt, and lime. These commodities load heavily; they require less expensive equipment than coal, and therefore less capital investment. The comparisons indicate higher rates and greater earnings per ton-mile for equal distances than are yielded by the coal rates, but we are without definite information as to the movement of traffic under the rates with which comparison is made. Lime, salt, and perhaps stone do move considerable distances, and we know that these commodities move in considerable volume from such places as Cleveland, Berea, Amherst, Sandusky, Toledo, and Detroit. On the other hand, it is a matter of knowledge with the Commission that common brick, sand, and gravel, by reason of their low value and the general distribution of supply, can not be transported long distances at rates

remunerative to the carriers. These comparisons are therefore without special value.

Respondents argue that an average rate of \$1.45 from Ohio for an average distance over all routes of 372 miles to the 13 representative points, yielding 3.90 mills per ton-mile, and of \$1.70 from the inner Crescent for an average distance over all routes of 487 miles, yielding 3.49 mills per ton-mile, indicate a very low level of rates.

COMPLAINANTS' EVIDENCE.

All of the Ohio complaints contain an averment that the present interstate rates from that state are unjust and unreasonable. They also charge that these same rates are unduly prejudicial to Ohio and unduly preferential of the coal districts of West Virginia, eastern Kentucky, and Tennessee. Generally speaking, however, the testimony of the Ohio operators and the evidence of other witnesses in behalf of complainants is addressed, in its final analysis, to the question of relationship of rates as between Ohio and the inner Crescent, except the Pittsburgh district, which ships but little coal into affected territory and which complainants generally exclude in their testimony and evidence. The briefs of each of the Ohio complainants declare that the competition of Pittsburgh coal is inconsequential and that there is no controversy over the adjustment as between Pittsburgh and Ohio.

The Ohio complainants, while not disputing the figures presented by the carriers in their analysis of the Crescent rates as shown in Appendix D, protest that the inclusion of rates and distances from the Pittsburgh district produces a result in the comparisons that is unfair to the Ohio districts, because the inclusion tends to shorten the average distance from the inner Crescent and to understate the real differences in distances between the Ohio districts and those districts of the inner Crescent with which competition really exists, namely, Fairmont, Kanawha, Kenova-Thacker, and eastern Kentucky and Tennessee.

Without going into detail, it is sufficient to state that we are satisfied that the complainants' methods of computing the short-line and average distances from the Crescent, with Pittsburgh excluded, to representative points in affected territory are incorrect and their distance figures inaccurate.

The Ohio complainants further contend that their rates are too high, measured by the service rendered, asserting that a dollar purchases a greater transportation service when the shipment is made from West Virginia than when it is made from Ohio. This contention is sought to be illustrated by numerous exhibits comparing distances and per ton-mile earnings yielded by the rates from Ohio to

affected territory with the distances and per ton-mile earnings yielded by the rates from the Crescent, or particular districts therein, to points in affected and nonaffected territory. One series of these exhibits, which limits the comparisons to Columbus and other points in affected territory, uses the carriers' own distance figures from the Crescent to the points indicated. It includes suggested rates from the Hocking district to points in affected territory measured by the rates from the Crescent districts for equal distances and shows what the difference would be between the present rates from the Crescent and the suggested rates from the Hocking district.

Another exhibit constructed upon similar lines extends the comparisons to points in affected and nonaffected territory.

The trouble with the first of these exhibits is that it limits its comparisons to Ohio rates from the Hocking district and incidentally gives representation to only two originating carriers. The second of these exhibits bases its average distances upon 72 shipping points only, and these served principally by the Chesapeake & Ohio Railway. The carriers' average of distances from the inner Crescent includes about 831 shipping points; from the Ohio districts, about 156 shipping points. The distances from each group are figured over numerous routes. Taken as a whole, the complainants' exhibits fail to give due consideration to the extensive group system, which is the foundation of this general rate structure. Fundamentally these exhibits tend toward a mileage scheme and, as applied to the production of the suggested rates, are predicated upon the assumption that the selected rates and distances from the inner Crescent districts mark the maximum of reasonable rates. Upon the question of relationship of rates between Ohio and West Virginia these exhibits may be more convincing. The evidence of record fails to show that the rates from Ohio are unreasonable.

THE MICHIGAN CASES.

Stripped of surplusage and recitals of evidential facts, the complaints in these cases allege that the rates from the origin districts to the respective destination points, as such, are unjust and unreasonable, *per se* and relatively, and unduly prejudicial to the respective destination points in favor of Detroit and Toledo. The complainants in the Battle Creek-Kalamazoo case also allege undue prejudice against those points in favor of Jackson, Mich.

It is further alleged in cases 7089 and 7422 that respondents violate the long-and-short-haul rule of the fourth section, in that coal is hauled to Jackson and Pontiac at rates in excess of those to farther distant points over the same line in the same direction.

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ROUTES.

The rates complained of are published in tariffs which carry practically no routing restrictions. Between the origin and destination groups there are many possible junctions or points of interchange where traffic might be delivered by the originating carriers to connecting or delivering carriers. Technically all such routes are available and shippers might demand routing accordingly. Practically, however, many of such routes would be unreasonably long and circuitous, or, when via the "shortest practicable route" as frequently designated by complainants, would often divide the haul among an unnecessary number of carriers and, in many instances, would short haul the originating line. As a matter of fact, the "open" routes, i. e., the routes operated and for which the participating carriers have divisional arrangements or agreements, are not so numerous as the possible routes and, generally speaking, are the more direct, although not necessarily the shortest available.

Complainants contend that in establishing the rates complained of the carriers made them sufficiently high to afford ample returns to the long and circuitous routes and that the resulting rates to the complaining destinations are unreasonable to the extent that they exceed reasonable maximum rates via the shortest possible routes, regardless of junction points or the number of carriers participating.

Battle Creek, Kalamazoo, Grand Rapids, and the other destinations, on behalf of which the complaints or intervening petitions were filed, are, with the exception of Pontiac, geographically beyond Jackson. The latter point claims the benefit of the shortest line thereto, and Battle Creek, Kalamazoo, and Grand Rapids claim that their rates should be made upon the short line through Jackson. We believe that the situation, as presented by the cases collectively, may be best studied and logically treated by looking to the competitive situation peculiar to the points named and to the circumstances and conditions affecting transportation to (1) Jackson; (2) Battle Creek-Kalamazoo; (3) Grand Rapids and points referred to as being geographically beyond Jackson; (4) Pontiac and, finally, by analyzing the bases suggested by several of the complainants for the construction of reasonable and nondiscriminatory rates and examining the circumstances and conditions common and applicable to all rates from the Crescent to Michigan points.

THE JACKSON CASES, NOS. 7089 AND 7667.

Jackson is served by four roads, viz, the Michigan Central, the Grand Trunk, the Cincinnati Northern, and the Lake Shore & Michigan Southern, hereinafter referred to as the New York Central. It is 74 miles west of Detroit via the Michigan Central and 71 miles northwesterly from Toledo via the New York Central, the latter

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being the short line between Toledo and Jackson. This city has a population of about 40,000 and has various manufacturing and other industries which consume annually about 135,000 tons of West Virginia and Ohio coal. Substantially none is received from the Pittsburgh district.

TOLEDO AND DETROIT RATES.

The rates to Jackson from all the districts are 35 cents higher than to Toledo and 20 cents higher than to Detroit. It is contended that the rates to Jackson are unreasonable *per se* as well as "relatively unreasonable" and unduly prejudicial as compared with rates to Toledo and Detroit. A like contention is made in the other Michigan complaints. The rates to Toledo and Detroit are, therefore, of interest and will be examined to some extent in connection with such analyses of the rates under investigation as the record may permit.

The factors which determine the rates from the producing points to the destinations involved in the several Michigan cases are: (1) Distances and routes, (2) competition between carriers and between producing districts, and (3) revenues of the carriers. These we shall consider in some detail.

The short-line distances to Jackson from the Ohio districts involved in the complaint range from 264 miles from the Hocking district to 321 from the Pomeroy district. The average from all is 292 miles. From the inner Crescent districts the short-line distances range from 339 miles from the Pittsburgh district to 468 miles from the southeastern Kentucky and Tennessee districts. The average from all is 414 miles. The averages via the short routes, long routes, and all routes, together with the rates, present and proposed, and the ton-mile earnings thereunder from the Ohio and inner Crescent districts are shown in Appendices C and D, respectively.

By far the larger proportion of the traffic moving to the complaining points is hauled through Toledo, and distances are in most instances computed through this gateway. While there is no serious controversy as to distances up to Toledo, the propriety of computing them via the New York Central from Toledo to Jackson and complaining points beyond is a matter of dispute in all of these cases and forms the basis of the allegation in certain of the complaints that the rates are made so as to favor the longer and circuitous routes. The distances, Toledo to Jackson, are as follows:

Route.	Miles.
N. Y. C.	71
M. C. R. R.	136
A. A.-G. T.	98
D. & T. S. L.-G. T.	175
A. A.-M. C. R. R.	84
Average.....	113

THE BATTLE CREEK-KALAMAZOO CASES, NOS. 6951, 7271, 7668.

The complaints in these cases allege that rates from certain named shipping points in Ohio, West Virginia, and the Pittsburgh district are inherently unjust and unreasonable, and also unduly prejudicial to Battle Creek, Kalamazoo, Otsego, Plainwell, Vicksburg, and Three Rivers in favor of Jackson, Detroit, and Toledo.

Reparation is asked on behalf of complainants in No. 6951 and certain of the interveners therein.

Kalamazoo, a manufacturing center, with a population of 40,000, is on the main line of the Michigan Central Railroad about midway between Detroit and Chicago. Both Battle Creek and Kalamazoo have comparatively small terminal costs. It is estimated that Battle Creek consumes annually 200,000 tons of coal and Kalamazoo 400,000 tons.

So far as the Battle Creek-Kalamazoo complainants are concerned the rates from the Pittsburgh district are paper rates. In many respects the character of the evidence introduced by them is similar to that presented in the Jackson case. Some testimony was offered in support of the contention that the rates to the Battle Creek-Kalamazoo group are unduly prejudicial. In general it was testified that it is extremely difficult to induce the location of new industries, and the failure to do so was chiefly ascribed to the alleged unreasonable and unduly prejudicial character of the rates on coal, particularly by comparison with the rates to Toledo and Detroit. But it is not alone with Toledo and Detroit that the Battle Creek-Kalamazoo complainants are in competition, for they also compete with Grand Rapids on the north and South Bend and Chicago on the south and west. Undue preference of Jackson is likewise alleged. The discrimination complained of is not very fully developed on the record, however, the testimony being limited to that of stove manufacturers at Kalamazoo and Battle Creek who assert that the coal rates are prejudicial to them and preferential of Detroit, and to manufacturers of paper, paper boxes, and cardboard at Kalamazoo and other points, who contend that they feel keenly the competition of mills at Monroe, Mich., in the Detroit group.

The testimony discloses that the Battle Creek-Kalamazoo concerns are in competition with manufacturers at Toledo and Detroit and that fuel is an important item in their production expenses. The only specific illustration of the alleged unlawful discrimination involved the comparison of inbound rates on coal and outbound rates on the manufactured commodity with the usual unsatisfactory result.

NO. 7682. GRAND RAPIDS ASSOCIATION OF COMMERCE ET AL.

It is alleged in the complaint in this case that the rates to Grand Rapids are unreasonable, and also unduly prejudicial in comparison with rates to Toledo and Detroit; that the grouping of Grand Rapids under the present adjustment with a large number of other cities in an irregular group which roughly describes an arc or segment of a circle extending from Bay City and Saginaw on the north to and including Terre Haute and Vincennes, Ind., on the south, deprives Grand Rapids of the advantage of its geographical location and its short haul; and that respondents do not maintain proper through routes to Grand Rapids.

Reparation is asked on all shipments moving within a period of two years next preceding the filing of the complaint.

Grand Rapids is about 49 miles north of Kalamazoo via the Grand Rapids & Indiana Railway. It is also served by the Grand Trunk, Michigan Central, New York Central, and Pere Marquette railroads. It is, next to Detroit, the most populous city in Michigan, and has large manufacturing and industrial enterprises which consume annually about 500,000 tons of coal. In addition, Grand Rapids is the principal coal distributing center for western Michigan. About 75 or 80 per cent of its coal is shipped from West Virginia districts. The rate on coal is therefore a matter of great importance to the complainants and the community. The rates to Grand Rapids are 5 cents higher than to Battle Creek and Kalamazoo, and 65 cents higher than to Toledo.

DISTANCES AND ROUTES.

As in the Jackson and Battle Creek-Kalamazoo cases, the bulk of the coal destined for Grand Rapids moves to Toledo, and thence via various routes over which the average distance from Toledo to Grand Rapids, as given by respondents, is 205 miles. This is calculated as follows:

Route.	Miles, Toledo to Grand Rapids.
New York Central.....	219
New York Central-G. R. & I.....	197
Michigan Central.....	230
Pere Marquette.....	184
D. & T. S. L.-G. T. Ry.....	238
A. A. R. R.-G. T. Ry.....	189
A. A. R. R.-M. C. R. R.....	178
Average.....	206

The short-line distance Toledo to Grand Rapids via the New York Central to Jackson thence Michigan Central is 166 miles; no coal
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moves this way because it is not an open route, the carriers having no divisional arrangement. It is 12 miles shorter than the route through Ann Arbor and 39 miles shorter than the average of the routes as shown by respondents. If included with the other routes shown, it would, however, make the general average only 5 miles less.

Some of the industries at Grand Rapids are in competition with those at Detroit, but, as the record abundantly shows, they are also in competition with like industries at Kalamazoo, Jackson, Battle Creek, Bay City, Saginaw, and other points. The testimony, as in the other cases, was to the effect that the relatively higher rates to Grand Rapids have been an obstacle in inducing industries to locate at that place.

NO. 7422. THE PONTIAC CASE.

Pontiac is not one of the points that have been heretofore described as being geographically beyond Jackson. The city is situated about 26 miles northwest of Detroit on the lines of the Grand Trunk and its owned or affiliated line, the Pontiac, Oxford & Northern Railway. It is chiefly a manufacturing city, has a population of about 18,000, and consumes about 60,000 tons of coal annually, most of which is shipped from the Kanawha district.

It is alleged that a rate of \$1.80 from certain named shipping points in the inner Crescent is unduly prejudicial to petitioners in favor of other points, to which the rates are as follows: Toledo, \$1.25; Detroit, \$1.40; Adrian, \$1.40; Battle Creek, \$1.85; Lansing, \$1.80; Sturgis, \$1.70; Kalamazoo, \$1.85; and Grand Rapids, \$1.90; "that the spread in the said rates to Pontiac over Detroit, Toledo, Adrian, and Sturgis is greatly in excess of the value of the service and the distance from said places and from Pontiac to the named points of origin. That the spread of the rates to Pontiac under the rates to Battle Creek, Kalamazoo, and Grand Rapids is far less than it should be, the mileage and value of service considered."

It is also alleged that certain of the respondents violate the long-and-short-haul rule of the fourth section by charging higher rates to Pontiac than they charge to farther distant points on the same line in the same direction, citing as an example the transportation of coal through Toledo, Detroit, and Pontiac to Hamburg, Mich., to which point the rate is \$1.60. This, however, merely instances the result of a circuitous route through Detroit to Hamburg, a point on the Grand Trunk beyond Pontiac, at which the Grand Trunk meets the rate of the direct route of the Ann Arbor Railroad from Toledo to Hamburg.

Reparation is asked on basis of a rate of \$1.55.

Complainants compute the short-line distance from Toledo to Pontiac as 84 miles, based on 58 miles via Michigan Central to De-
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troit, plus 26 miles via Grand Trunk beyond. Respondent, Grand Trunk Railway, computes the average distance as follows:

	Miles.
D. & T. S. L.-G. T.-----	96
A. A.-G. T.-----	96.8
M. C.-P., O. & N.-----	11.7
Average -----	101.5

Most of the coal to Pontiac moves through the Toledo gateway. That which moves over the Michigan Central from Toledo to Oxford, thence over the Pontiac, Oxford & Northern to Pontiac, a distance of 111.7 miles, involves a southbound haul of about 14 miles—practically a back haul—from Oxford to Pontiac. That which moves north via the Ann Arbor Railroad from Toledo to Lakeland, or, as it appears, even to Durand, and thence southeasterly via the Grand Trunk to Pontiac, moves via a very indirect route, such routing, according to complainants' witness, being solicited by the representatives of the lines which get a haul via the circuitous route.

The inclusion by respondents of the most circuitous routes unduly lengthens the average distances and produces unfair and inaccurate results. Some conception of respondents' method of computing distances may be gained from an inspection of the map, noting in connection therewith that the shortest and most direct route, from Toledo to Pontiac, namely, 84 miles via the Michigan Central to Detroit, thence Grand Trunk, is not taken into consideration, because the Detroit & Toledo Shore Line from Toledo to Detroit is allied with the Grand Trunk Railway, and no divisions are made in connection with the Michigan Central.

It was explained by respondents in respect of the extremely circuitous route via Durand that that route was maintained as an open route because the physical condition of the line from Lakeland to Pontiac is such as to preclude the transportation with safety of carloads in excess of 130,000 pounds gross. It is shown of record, however, that numerous shipments of coal from the West Virginia districts are hauled by way of Lakeland, the loaded tonnage ranging from 75,000 to 100,000 pounds. The tare weight is not shown.

The average distance from Toledo to Detroit is, as already stated, 71 miles. If we add to this 26 miles from Detroit to Pontiac we get a total of 97 miles, substantially the same as via two of the routes as shown by respondents. Moreover, if we add to the respondents' statement of distances via the various routes shown above that of the short line via Detroit, viz, 84 miles, we get an average via all routes, including the most circuitous, of 97 miles. We think that 97 miles may fairly be regarded as an average distance from Toledo to Pontiac.

While the complaint alleges unlawful discrimination, little effort was made to establish that allegation. No evidence was introduced except the comparisons of earnings yielded by the rates to Pontiac and other points; and some testimony tending to show that complainants, engaged in the manufacture of automobiles and parts, had not been operating profitably, and that they were in competition with manufacturers of like vehicles and parts at Detroit, Toledo, and other points. The evidence abundantly shows that complainants compete not only with Detroit and Toledo but also with manufacturers at several other Michigan points, such as Flint and Saginaw.

GENERAL COMPARISONS OF RATES TO MICHIGAN CITIES.

All kinds of comparisons of the rates here under attack are made with rates on coal in what complainants designate as higher rated territory. Rates on bituminous coal from Duluth, Minn., to Minnesota and northwestern points are cited, but these rates apply on ex lake coal, and the comparison is therefore of doubtful value. Rates on coal from Illinois and Indiana mines to Omaha, Nebr., and Minnesota points are instanced, but these, though slightly higher than rates from West Virginia to Kalamazoo, apply over longer distances and yield a somewhat lower per ton-mile return than do the latter. Reference is made to local and proportional rates from the Harrisburg district in Illinois to Chicago. These rates were before this Commission in 1911, when increases from \$1.02 local and 92 cents proportional, yielding per ton-mile earnings of 3.2 and 2.8 mills, respectively, to \$1.05 local and 95 cents proportional, yielding 3.3 and 2.9 mills, respectively, for a 315-mile haul, were approved. *Investigation and Suspension Dockets 52 and 52 A*, 22 I. C. C., 341, 346.

Through rates on coal said to be based on combination over Chicago are maintained from Indiana and Illinois mines to these interior Michigan points. The rates to Detroit from these mines increase 20 cents per ton from Kalamazoo and 15 cents per ton from Battle Creek. Westbound the rates to Battle Creek and Kalamazoo are 45 cents higher than to Detroit and 60 cents higher than to Toledo. Complainants urge that the greater increase in the "arbitrary" or difference in the rate points to unlawful discrimination in the westbound rates. The record, however, is devoid of all information relative to circumstances and conditions underlying the adjustment of rates from Indiana and Illinois mines; scarcely any Indiana-Illinois coal gets into Michigan and the testimony does not show that respondents here are in any wise responsible for the eastbound rates. Unlawful discrimination can not be predicated upon a mere assumption or assertion of its existence and the comparison with the eastbound rates avails nothing.

ANALYSES OF RATES AND ROUTES.

There is a veritable anarchy of irreconcilable figures in the comparisons made by the various complainants of distances from the origin points to the selected interior Michigan points, and, of course, for the most part there is no agreement between complainants' and respondents' computations. The figures submitted by complainants in the original hearings are based principally upon the shortest ascertainable routes from a few shipping points in the Ohio, West Virginia, and Pittsburgh districts. They give no accurate idea of distances from the original groups as a whole; nor did respondents submit complete or very reliable figures at the first hearing in the Michigan cases. In the later hearings, however, comprehensive computations were submitted by the respondents, and as the accuracy of these distances is not seriously questioned, but only the propriety of including circuitous routes, respondents' statements of average distances via the short routes and the average via all routes will be employed as the basis for some comparisons. Consideration will be given to the contention of complainants in respect to the inclusion of circuitous routes to some of the Michigan points.

The question, what route or routes may properly be taken into consideration in fixing rates to these interior Michigan points is much disputed in these cases. Complainants seek out the shortest possible route in all cases regardless of the number of lines, interchanges necessary, or the rights of the carriers under section 15. They contend that the short line should determine the rate, and that the longer, or at least the circuitous lines, should not be considered. The respondents include the longer and most circuitous lines in every instance. In one or two instances they wholly ignore the shortest lines in figuring the average distances. For instance, they generally disregard the short line to Jackson, exclude the short line absolutely in computing their average distances to Pontiac and include extremely circuitous lines in figuring the averages to Battle Creek and other points in the southwestern part of the state.

With reference to this question of routes, we may briefly note one or two examples. The New York Central from Toledo to Jackson passes through Lenawee Junction, a point 29 miles from Toledo, and this route by common acceptance is referred to as the Lenawee Junction route. Substantially all coal from points of origin involved to Jackson, except that moving via the Cincinnati Northern Railroad, passes through the Toledo gateway. The majority of industrial tracks in Jackson are located on the Michigan Central Railroad and that carrier brings to Jackson the bulk of the coal consumed in that city. A considerable if not the greater portion of it moves through

Detroit. The Lenawee Junction route, however, is an open one on traffic to Jackson proper, and complainants contend it should be the only one considered in computing distances through the Toledo gateway; respondents reply that it would be improper and unfair to consider only the short line, and that—

these (destination rates) are group rates. To fix the rate to Jackson you should take into account more than the short line. By getting a group rate Jackson gets the benefit of having a number of routes open to it. If the strictly mileage basis were used * * * Jackson would be cut out of the benefit of a number of open and competing routes. It would cut out not only delivery routes; it would cut out also the benefit of competing origin lines. I say that if Jackson thus has the benefit of a number of open and competing routes the rates should be fixed with some reference to these routes. It should not get the use of all routes and have its rate fixed by the short route.

There is much truth in this. While there may be no good reason why, in fixing rates to Jackson, the circuitous route of the Detroit & Toledo Shore Line-Grand Trunk Railway should be considered, nevertheless the route of the Michigan Central, upon whose tracks the great majority of industries are located, should be included. While Jackson is entitled to the benefit of its short-line distance, it would be unfair to base rates upon that distance alone; indeed, if the matter of terminal deliveries and the expense incident thereto should become important, we think it would not be advantageous to Jackson to have its position limited to one route.

The bulk of the coal shipped to Michigan points originates in the inner Crescent districts—practically all of it in West Virginia and Kentucky. Based upon the average distances shown by respondents over the short routes and over all routes, an analysis has been made of the per ton-mile and per car-mile earnings under the present rates from the inner Crescent to some of the principal Michigan destinations as shown below:

TABLE NO. 6.—Comparative analysis of per ton-mile, per car, and per car-mile earnings (based on 45-ton loading) under present rates on bituminous coal from the inner Crescent to Toledo, Ohio, Detroit, Mich., and interior Michigan points.

To—	Present rate.	Average short-line distances.	Per ton-mile earnings.	Average distances all routes.	Per ton-mile earnings.	Per car.	Per car-mile, average distances, all routes.
		Miles.	Mills.	Miles.	Mills.		Cents.
Toledo, Ohio.....	\$1.25	345	3.62	355	3.52	\$56.25	15.8
Detroit, Mich.....	1.40	406	3.45	436	3.21	63.00	14.4
Pontiac, Mich.....	1.80	429	4.19	452	3.98	81.00	17.9
Lansing, Mich.....	1.80	452	3.98	474	3.79	81.00	17.1
Grand Rapids, Mich.....	1.90	501	3.79	553	3.44	85.50	15.4
Kalamazoo, Mich.....	1.85	463	4	518	3.57	83.25	16.1
Jackson, Mich.....	1.60	414	3.86	460	3.48	72.00	15.7

¹ Computed via Toledo.

The rates on coal from the origin districts involved in this proceeding to Toledo, Detroit, and the interior Michigan points apply over fairly long hauls, and the complainants lay much stress upon the fact that for the longer distances to interior Michigan points the per ton-mile earnings are greater than they are for the shorter hauls to Toledo and Detroit. They argue that the general rule that the per ton-mile return should ordinarily decrease as the distance increases finds appropriate application in these rates, and assert that there exists in the coal-rate adjustment none of the elements of lateral or stub lines, local rates, etc., that the Commission has often found to justify departure from the general rule, and that the increasing ton-mile returns, apparent in some of the comparisons, proves that the rates to the interior points are unreasonable. These comparisons assume, of course, that the rates to Toledo are reasonable, and complainants contend that the Commission so held in *The Five Per Cent Case*, 32 I. C. C., 325, 331.

Various bases for constructing alleged reasonable and nondiscriminatory rates to these interior points have been suggested by the complainants and will be considered later. In several of these the suggested rates are built upon graduated or progressively increasing rates from some fixed basis such as the Pittsburgh-Youngstown rate of 70 cents for a 99-mile haul. That there is an abrupt jump or increase in the rates to interior Michigan points as compared with Toledo and Detroit is apparent from the following analysis:

TABLE NO. 7.—Relation of rates and distances from inner Crescent to Detroit and interior Michigan points compared with rates and distances from same origin groups to Toledo, averages of short routes and all routes being used.

Destination point.	Rate.	Average distance via short routes.	Average distance via all routes.	Per cent via average of short routes of—		Per cent via average of all routes of—	
				Rate.	Distance.	Rate.	Distance.
		<i>Miles.</i>	<i>Miles.</i>				
Toledo, Ohio.....	\$1.25	345	365	100	100	100	100
Detroit, Mich.....	1.40	406	436	112	118	112	128
Pontiac, Mich.....	1.80	439	462	144	124	144	127
Lansing, Mich.....	1.80	452	474	144	131	144	134
Grand Rapids, Mich.....	1.90	501	553	152	145	152	156
Kalamazoo, Mich.....	1.85	463	518	148	134	148	146
Jackson, Mich.....	1.60	414	460	128	120	128	130

SUGGESTED RATES.

The rates suggested by complainants take a wide range and are based upon various formulæ. Four of the formulæ, for instance, applied by the Jackson complainants yield four different sets of rates from the Pittsburgh district to Jackson, all of which are below the

present \$1.25 base rate to Toledo, which others of the complainants admit is a reasonably low rate. One witness contended that the rates from Ohio points to Jackson should not be higher than to Toledo since, in his view, the difference in distance is not sufficiently great to justify a difference in rates.

Complainants in the Pontiac case argue that the rates to Toledo and Detroit afford a fair basis of comparison and that the 15-cent spread between these points makes a reasonable increase. By a mathematical calculation they find, taking the Pittsburgh rate, for example, that the decrease in the ton-mile revenue to Detroit as compared with Toledo is about 0.50 of a mill, or 0.00735 mills per mile. Applying this ratio of decrease to the Pontiac distance would result in a decrease of ton-mile revenue to that point as compared to Toledo of about 0.6836 mills, which, deducted from the per ton-mile revenue yielded by the rate to Toledo would give 4.04 mills as the ton-mile return of a reasonable rate from Pittsburgh to Pontiac equivalent to \$1.36 per ton from the Pittsburgh district. Other formulæ yield suggested rates varying from \$1.14 to \$1.22 per ton, less even than the present rates to Toledo. Still other formulæ would yield rates of \$1.31, \$1.42, and \$1.34, respectively. These are less, except in one instance, than the present rate to Detroit. While complainants contend that by no test should Pontiac, distance considered, take any higher rate from Pittsburgh than \$1.46, they concede the necessity of the group basis and that a reasonable rate from West Virginia districts to the Pontiac group may properly be \$1.50, or, at most, \$1.55 per ton. Very similar tests and comparisons are made by complainants in the Battle Creek-Kalamazoo cases, with results very similar in all respects to those cited above, except that the amounts differ.

Complainants in the Grand Rapids case have not indicated any specific rates concededly reasonable from the various points of origin to Grand Rapids, but taking the rate of 70 cents from Pittsburgh to Youngstown and extending it at the ratio of increase which the present central freight association distance scale allows on traffic taking 70 per cent of sixth class, complainants suggest a constructive rate of \$1.34 for a distance of 430 miles, which is about the average of distances from the Ohio districts to Grand Rapids.

None of the tests made by the various complainants, or the suggested rates based thereon, are convincing or particularly helpful. They are based in many instances on comparisons of doubtful value and on computations of distances that are inaccurate and restricted to the shortest line routes and from a limited number of shipping points only, giving consideration for the most part to no transportation conditions other than distances, and failing to give due weight

either to the group system upon which the rates are built or to the relationship between the rates that has been so long maintained.

CHANGED TRANSPORTATION CONDITIONS.

It is contended by some of the complainants that the conditions attending the transportation of coal from the origin districts to Michigan points have greatly changed since the establishment of the present rate structure. When rates were first made to points in Michigan and throughout the formative period of the group structure, there were many independent lines in Michigan which have since been merged in the larger Grand Trunk, Pennsylvania, and New York Central systems. When independently owned and operated the original roads possessed the rate-making power and undoubtedly each road had a basis upon which it fixed through rates on coal to points on its line. It is complainants' contention that the increased economy of operation resulting from the merger of the smaller independent roads into larger systems has not been reflected in any reduction of rates.

It is asserted that the carriers north and west of Toledo receive excessive divisions out of the through rates from the origin districts and that complainants have had no share in the benefits which have been reaped by respondents from a greatly increased tonnage and more economical operation of system lines in recent years.

As illustrative of this situation complainants introduced evidence that out of the \$1.40 rate from Pittsburgh and West Virginia districts to Detroit the carriers north of Toledo receive 39.1 cents per ton; that out of the \$1.85 rate from West Virginia mines to Battle Creek the lines beyond Toledo receive 83.2 cents, leaving the carriers south of Toledo \$1.018. In other words, the carriers beyond Toledo receive 23.2 cents per ton more than the increase in the rate over Toledo; that out of the rates to Jackson and Pontiac the carriers north of Toledo receive a division greater than the spread in the rate over Toledo. In respect of the application of the rate via the circuitous route of the Ann Arbor Railroad from Toledo to Lakeland, 62 miles, thence 35 miles to Pontiac, it was testified that the proportion of the through rate north of Toledo is 65.1 cents, of which 25 cents goes to the Ann Arbor Railroad for its haul to Lakeland and 40.1 cents to the Grand Trunk for its haul of 35 miles, Lakeland to Pontiac; that the same proportion, 65.1 cents north of Toledo on traffic via the Detroit & Toledo Shore Line to Detroit thence Grand Trunk to Pontiac divides 25 cents to the Shore Line for a haul of 78 miles and 40.1 cents to the Grand Trunk for a haul of 26 miles beyond. It has already been stated that some coal moves into Pontiac via the extremely circuitous route of the Ann Arbor to Durand, a distance of 95.7 miles, thence via the Grand Trunk to Pontiac, 41

miles, a total of 137 miles. It was testified that the 65.1-cent proportion via this route divided 32.5 cents to the Ann Arbor Railroad and 32.6 cents to the Grand Trunk.

THE DETROIT RATE.

The Detroit rate is made 15 cents over the rate to Toledo. The determining factors are said to be the volume of traffic, the question of Canadian rates, and water competition. As we have previously observed, Toledo is the principal gateway for coal entering Michigan, and all the principal carriers from the Ohio and Crescent districts deliver coal to connections at this city. Detroit is, and has always been, the largest coal-consuming center in Michigan. It is also a main distributing point for Michigan coal and is the gateway for traffic moving through Toledo to Canadian points. These circumstances make Detroit an important destination for coal from Ohio and the Crescent, and the movement is generally in solid trains from Toledo to Detroit.

There are no joint through rates to Canadian points on coal from origin districts here involved. Coal destined to Canada moves either through the Detroit or the Niagara frontier. Thus coal moving into Canada through the Detroit frontier comes into competition with coal from the Pittsburgh and Reynoldsville districts in Pennsylvania moving through the Niagara frontier, and the rate from the respective origin districts is slightly less to the Niagara frontier than to Detroit. In addition to the all-rail routes into Canada, there are car-ferry routes across Lake Erie. The adjustments of these rates to Canadian points through the frontiers and the cross-lake routes are shown upon the accompanying map.

The situation with respect to the Canadian markets; the coal docks at Detroit and at Windsor, on the Canadian side of the Detroit River, which furnish large supplies of coal to the lake boats; the facilities which some local industries at Detroit have for receiving and handling coal; and the possibility of handling a considerable tonnage of coal over docks at Detroit, are water competitive conditions that are said to have been potent in the fixing of an all-rail rate to Detroit lower than would otherwise have been established.

CHANGES COMMERCIAL CONDITIONS.

It appears from the record that commercial conditions during the formative period were determinative in making the adjustment of the rates and fixing the destination groups, and that the volume of tonnage has also been a factor; that a larger tonnage to Chicago has been developed since the rates to that point were established; that these conditions afterwards resulted in a material reduction in the

original rates to Chicago; that the present basis of rates into Michigan has been in effect for many years without change, except for minor reductions to Battle Creek and Kalamazoo; that the volume of coal tonnage to the interior Michigan points has increased in common with all traffic thereto; and that notwithstanding these changes there has been no reduction in the general level of coal rates to Michigan points. In fact, since the organization of the Pennsylvania Company's coal department, about the year 1901, the only changes in the rates to Chicago, Michigan points, or central freight association territory have been increases of 10 and 15 cents per ton made about 1902.

While the rates from Ohio and the inner Crescent districts to interior Michigan points seem to be on a distinctly higher level than to other sections of affected territory we find that they are not unreasonable.

UNLAWFUL DISCRIMINATIONS.

The spread in the rates to interior Michigan points over those to Detroit and Toledo is marked, but the rates to the latter cities are low rates and are depressed by circumstances and conditions of transportation that do not affect interior Michigan points. Nevertheless, the disparity between the rates of \$1 from Ohio and \$1.25 from the inner Crescent groups, respectively, to Toledo, as compared with the higher rates from the same points of origin to interior Michigan points, is too great and amounts to undue prejudice against the interior points and undue preference of Toledo. The disparity between the Detroit and Pontiac rates is particularly striking, the increase over Detroit being 40 cents for an additional haul of only 26 miles.

The establishment by the Public Utilities Commission of Ohio of the 85-cent rate from the Hocking district to Toledo via the Hocking Valley Railway enhances the measure of undue prejudice already existing against the interior Michigan cities under the \$1 rate. The respondents in removing the discrimination found to exist against the interior Michigan cities under the general adjustment from Ohio and the Crescent will be expected to remove the additional discrimination resulting from the maintenance of the 85-cent rate from the Hocking district via the Hocking Valley Railway.

Some of the complainants allege undue preference of other complaining points as, for instance, Kalamazoo and Battle Creek, which have a rate of \$1.85 from the Crescent, and assert that the rate of \$1.60 to Jackson is unduly prejudicial to them and unduly preferential of Jackson. Pontiac alleges that the lower rates to Jackson, Sturgis, Adrian, and other interior Michigan points discriminate against it. In respect of unlawful discrimination in the rates as between the interior Michigan points themselves there is a failure of proof and the allegations are not sustained.

There is no proof that the undue preference found to exist in favor of Toledo and Detroit has resulted in tangible injury to any of the several complainants. The prayers for reparation must therefore be denied.

There appear to be instances of departures from the fourth section. No fourth section applications were assigned for hearing in connection with this proceeding and the evidence respecting the departures is neither complete nor definite. No order can be made, therefore, in respect of any fourth section departures, but it is expected that, in lining up their rates in accordance with the requirements to be herein made, respondents will not increase any existing discriminations resulting from departures from the long-and-short haul clause.

A manufacturing concern at Albion, Mich., intervened in the proceeding for the purpose of protecting its interests in the relationship of rates. Albion is situated 20 miles west of Jackson. It is 93 miles from Toledo via the direct line of the New York Central, and 91 miles via the joint route of the New York Central and Michigan Central railroads through Jackson. The rate from the Ohio districts to Albion is \$1.50; from the inner Crescent, \$1.75. The intervener contends that the rates are unduly prejudicial to Albion and unduly preferential of Toledo to the extent that they exceed the rates to Toledo by more than 20 cents per ton. Albion is intermediate to Lansing via the line of the New York Central.

While the circumstances and condition of transportation, such as lighter density of traffic, additional carriers, and, in some instances, more indirect hauls north of Toledo, may be such as to warrant a somewhat higher level of rates to the interior Michigan points than prevails south of Toledo, it nevertheless appears that the spread over Toledo of the rates to the points named below is too great. Therefore, and upon consideration of all the facts of record, we find that the rates complained of from the Ohio and so-called Crescent districts to the interior Michigan points named below are not unreasonable but that they are unduly prejudicial to those points and unduly preferential of Toledo, Ohio, to the extent that the rates to the said Michigan points exceed the rates to Toledo, Ohio, by more than the amounts specified in cents per short ton:

To Pontiac and Lansing, Mich., by more than 40 cents; to Jackson, Mich., by more than 25 cents; to Albion, Mich., by more than 40 cents; to Battle Creek and Kalamazoo, Mich., by more than 55 cents.

The evidence does not justify any finding of undue prejudice against Grand Rapids. It is expected that the carriers in readjusting their rates to Pontiac, Lansing, Jackson, Battle Creek, and Kalamazoo in accordance with the findings herein will make correspond-

ing adjustments to the other interior Michigan cities which, under the destination grouping, now take the same rates.

THE REASONABLENESS OF THE PRESENT CRESCENT RATES.

Having disposed of the complaints of the Michigan cities as to specific rates from the Crescent and Ohio districts, we will briefly consider the reasonableness of the general rate level from the Crescent group to affected territory. In view of the interdependency of the rates in the general adjustment and of the fact that the Crescent rates must be considered as built over the Ohio rates, the reasonableness of the rates from the Crescent is to be determined largely by comparison with the Ohio rates. The general level of the present rates to representative points in affected territory from the Ohio districts is shown in Appendix C; from the inner and outer Crescents in Appendices D and E, respectively.

A general survey of the averages of the rates, distances, and ton-mile earnings from all groups to representative points in affected territory under the present rates and under the proposed rates from the Crescent may be had by reference to the following table:

TABLE No. 8.—Average of distances, rates, and per ton-mile earnings (in mills) on bituminous coal to 13 representative points in affected territory.

[Compiled from Appendices C, D, and E.]

From—	Average distances via—			Average of rates.		Revenue per ton-mile under—					
						Present rates.			Proposed rates.		
	Short routes.	Long routes.	All routes.	Present.	Proposed.	Short routes.	Long routes.	Average all routes.	Short routes.	Long routes.	Average all routes.
Ohio.....	340	418	372	\$1.45	.....	4.26	3.47	3.90	.....	.....	.....
Inner Crescent.....	449	534	487	1.70	\$1.84	3.79	3.18	3.49	4.10	3.45	3.78
Outer Crescent.....	515	616	558	1.89	2.03	3.67	3.07	3.39	2.94	3.30	3.64
Difference in averages, inner Crescent over Ohio.....	109	116	115	.25	.39	1.47	1.29	1.41	1.16	1.02	1.12

¹ Less than Ohio rates yield.

The respondents submit in support of their contention that the rates from the Crescent are abnormally low, comparisons similar to those made with the Ohio rates, that is, eastbound coal rates, heavy loading commodity rates, etc. As in the case of the Ohio comparisons, the per ton-mile earnings under the present rates from the Crescent are comparatively lower than those yielded by the rates with which comparisons are made. Indeed, the comparisons emphasize in a very striking manner the relatively lower earnings received under the present Crescent rates. The similarity of the

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exhibits makes it unnecessary to set them forth in detail in this report. Generally it may be said that the westbound rates from the Crescent are lower, comparatively, than the eastbound rates on coal already cited, and lower also than the eastbound rates on coal to tidewater points for transshipment within or without the capes.

In the light of all the evidence, the present rates from the Crescent to affected territory must, considering the circumstances and conditions of transportation and the value of the service, be regarded as below the level at which reasonable maximum rates might be fixed.

The proposed increases from the Crescent would raise the average rates from the Crescent to \$1.84, yielding for the average distance of 487 miles over all routes 3.78 mills per ton-mile.

REASONABLENESS OF PROPOSED RATES.

When the proposed rates from the Crescent to affected territory were published to become effective in January, 1916, and when the hearings were first begun, the carriers' principal reasons advanced in support of their action were (1) the general low level of the Crescent rates, which, however, were not at that time claimed to be unremunerative; (2) the propriety of increasing the Crescent rates to cure or remedy an admitted discrimination against the Ohio districts in line with the situation that had theretofore been presented to the Commission at the informal conference and in the prepared statement reproduced in Appendix B. The first of these reasons has been discussed at some length; the second will be considered presently in connection with the question of the differential. During the pendency of this proceeding, the hearings in which have continued over a period of more than a year, very great changes in operating and traffic conditions have occurred, which have affected the carriers' net revenues adversely and have made the matter of increased revenue a very serious one with most of the respondents, many of which derive the major portion of their earnings from the transportation of coal. They accordingly undertook to lay before the Commission the fundamental facts in respect of the actual effects of these changed conditions so far as they had become apparent, or could be anticipated, in the later sessions of the hearing.

Some of the protestants have, in effect, objected to the evidence in respect of this changed situation, seeming to take the view that the respondents had abandoned or changed their original grounds of justification at a late stage in the proceeding. This proceeding, however, is one of investigation and suspension instituted by the Commission and in which the general public has an interest, and is not an action instituted upon pleadings or one to be litigated between private parties. Even if respondents have shifted the theory of their

case somewhat, the Commission must give consideration to all the material facts of record.

The relative tonnage proportion of bituminous coal to all traffic handled by the originating carriers serving the various mining districts is shown in the following table:

TABLE No. 9.

Originating carrier.	Per cent of bituminous coal to all traffic for years—											
	1900	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915
K. & M. Ry.....	59.59	72.51	72.86	70.30	72.69	72.97	75.71	79.56	80.42	75.69	75.71	76.20
C. & O. Ry.....	42.45	53.43	57.46	58.67	63.50	66.97	65.84	65.90	68.11	63.68	67.98	70.26
N. & W. Ry.....	41.52	51.47	49.22	46.38	52.04	54.65	55.04	59.89	67.80	64.71	65.30	71
B. & O. R. R....	38	42.56	39.77	39.33	44.03	43.46	42.95	45.08	46.34	43.89	46.51	46.01
W. Md. Ry.....	38.51	41.92	48.77	43.20	43.88	55.88	61.71	58.73	59.04	53.66	56.47	60.73
Wab. Pitt. Tml. Ry.....		88.63	53.50	51.11	43.49	42.68	37.83	46.09	42.43	54.42	52.74	53.6
L. & N. E. R. R....	28.81	28.71	27.76	29.04	31.96	29.99	32.63	34.16	34.02	36.25	36.97	40.59
P. R. R.	31.35	30.64	31.50	31.49	36.05	35.94	33.68	34.80	36.04	33.40	37.28	35.6
P. C. C. & St. L. Ry.....	32.93	33.92	40.08	41.22	43.08	38.40	39.67	43.92	46.51	45.21	43.87	42.58
Pa. Co.....	26.49	33.69	32.09	34.76	40.14	42.93	39.14	44.76	45.92	42.99	45.26	43.98
P. & L. E. R. R.	43.78	42.62	40.38	37.70	40.32	37.79	33.18	37.98	37.05	34.63	35.73	34.90
T. & O. C. Ry....	68.32	72.31	71.47	72.79	72.08	72.41	72.14	71.45	71.80	69.73	70.53	71.22
H. V. Ry.....	58.71	65.45	62.24	62.04	66.46	68.47	68.03	72.14	74.07	70.58	68.30	68.2
W. & L. E. Ry....	44.10	48.62	45.05	48.75	53.62	46.74	44.09	45.43	45.83	44.40	40.04	21.45
C. H. & D. Ry....	22.54	32.44	33.54	24.39	35.07	37.90	42.54	43.07	47.50	43.99	47.05	51.02
D., T. & I. Ry....		40.12	40.66	32.45	40.68	46.88	35.21	36.69	39.39	37.62	38.52	37.45

It was estimated that the traffic to which the increased rates would have applied in the year 1915, was only 13,209,000 tons, and that, based on this tonnage, the increased revenue which the carriers might expect should these rates be approved would amount to \$1,981,350, which would, of course, be divided among many carriers. On the other hand, it was stated that should the differential between Ohio and the Crescent be widened by reducing the rates from Ohio, the decreased rates would extend to all Ohio tonnage, intrastate and interstate, and possibly to the tonnage from the Pittsburgh district, so that the reduction might affect as much as 70,000,000 tons.

OPERATING RESULTS AND TENDENCIES.

Evidence was introduced to show the tendency in earnings and expenses of respondents since June 30, 1916, and comparisons were made of the operating results for the years ended June 30, 1912, 1915, and 1916. A summary of these comparisons will be found in Appendices I and J in the report in *Lake Cargo Coal Rates*, pages 159, 227, 228, *post*. Briefly stated, the year ended June 30, 1915, as compared with 1912 shows, according to Appendix I, that the operating revenues increased 0.22 per cent and the operating expenses increased 1.71 per cent; that the net operating income decreased 8.26 per cent and the return on investment decreased from 5.33 per cent in 1912 to 4.43 per cent in 1915. For the year ended June 30, 1916, com-

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pared with 1912, the revenues increased 24.19 per cent, the operating expenses increased 15.73 per cent, the net operating income increased 45.92 per cent, and the return on investment increased from 5.33 per cent in 1912 to 6.88 per cent in 1916.

Appendix J in the report in *Lake Cargo Coal Rates* shows the operating results for the last six months of 1916, compared with the corresponding months of 1915, and indicates a declining tendency in the operating income beginning with the month of October, 1916. Thus, in July the increase in operating income was 18.1 per cent, in August 18.5 per cent, in September 2.5 per cent, while in October the operating income decreased 1.2 per cent, in November 13.1 per cent, and in December 18.3 per cent.

INCREASED COST OF MATERIALS AND SUPPLIES.

Evidence was introduced to show that there has been a marked increase in the prices carriers must pay for new equipment, fuel coal, and materials and supplies generally. The evidence indicates a steadily rising level of cost of such materials and supplies.

From the exhibits introduced a table has been compiled showing the average prices paid during each of the years 1912 to 1916, inclusive, and the estimated prices for 1917 for locomotives, freight cars, coal, and 55 other miscellaneous articles used in large quantities by each of the carriers. This compilation is reproduced in extended form in Appendix H in the report in *Lake Cargo Coal Rates*, pages 159, 214, *post*. The average prices for the years 1912 to 1915, inclusive, are also shown, as well as the average quantity of each article produced per annum during the years 1912 to 1916, inclusive. By applying to the average annual quantity purchased the average prices paid for the years named and the estimated prices for 1917, respectively, the increased cost to the carriers of the articles enumerated may be approximated. Such approximated cost for six representative carriers furnishing the data is shown in the following table:

TABLE No. 10.

Carrier.	Total cost per year.		Estimated increased cost per year.	
	At average prices, 1912-1916.	At estimated prices for 1917.	Amount.	Per cent.
B. & O. R. R.	\$21,033,000	\$32,192,000	\$11,159,000	53
Pa. lines, west of Pittsburgh	24,515,000	34,259,000	9,744,000	40
N. Y. C. R. R. west of Buffalo	10,486,000	15,604,000	5,118,000	49
N. & W. Ry.	9,983,000	15,859,000	5,876,000	59
C. & O. Ry.	8,631,000	13,364,000	4,833,000	57
P. & L. E. R. R.	4,965,000	7,065,000	2,130,000	43
Totals	79,512,000	118,373,000	38,860,000	49

It will be understood, of course, that the prices for 1917 are but estimates prepared from the best information available of record. No uniformity could be observed in stating the 1917 prices, which in some cases are based upon the contract price for the entire year, in others upon the last price paid, or the latest quotation received; and in a few instances other methods of estimating prices were used based upon the testimony.

The estimated increased costs shown in the foregoing table include the following estimated increases in the cost of coal and equipment:

TABLE No. 11.

Carrier.	Coal.	Equip- ment.	Total.
B. & O. R. R.	\$2,089,000	\$3,938,000	\$6,027,000
Pa. lines, west of Pittsburgh	3,513,000	1,902,000	5,415,000
N. Y. C. R. R. west of Buffalo	326,000	1,569,000	885,000
N. & W. Ry.	2,491,000	713,000	3,204,000
C. & O. Ry.	1,248,000	1,986,000	3,204,000
P. & L. E. R. R.	872,000	79,000	951,000
Totals	10,539,000	9,182,000	19,691,000

¹ The equipment purchased by the former L. S. & M. S. Ry. for the years 1912 and 1913 was shown separately, but for the years 1915 and 1916 the purchases are shown for the N. Y. C. R. R. Co. as a whole. A proportion of the purchases by the latter named company has been assigned to the line west of Buffalo on a mileage basis.

The testimony is that the cost of the articles for which the above estimates were made approximated 60 to 70 per cent of the total cost of materials and supplies purchased by the carriers furnishing the data. The witnesses assert that the year ended June 30, 1916, was an abnormal one and the most prosperous in the history of respondents, both as to gross and net revenues, and that the effect of the rising costs had not begun to be felt until late in the calendar year 1916.

The carriers have not sought by any evidence relating to the cost per unit of traffic of the transportation service to show that the proposed rates are justified, and protestants argue that such evidence is essential, if not controlling, and that because of its absence the carriers have failed to sustain the burden of proof to show that the increased rates are reasonable. The cost of transporting a commodity is an element properly to be considered in deciding what is a reasonable rate, but it is not necessarily determinative in all cases. Cost of transportation may be said to determine the minimum rate that may be charged as, on the other hand, the value of the service to the shipper marks the maximum of a reasonable rate or charge. As was said in *Investigation and Suspension Docket 26 to 26C*, 22 I. C. C., 604, 624:

We may not say that a rate shall be fixed so as to meet the requirements or needs of any body of shippers in their efforts to reach a given market,

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nor may we establish rates upon any articles so low that they will not return out-of-pocket cost. Neither could we fix an entire schedule of rates which would yield an inadequate return upon the fair value of the property used in the service given. There is, however, a zone within which we may properly exercise "the flexible limit of judgment which belongs to the power to fix rates." These are the words of the Chief Justice of the Supreme Court, 206 U. S., 26. There is no flexible limit of judgment if all rates must be upon a level of cost, and out of every dollar paid to the carrier must come a fixed amount of return for capital invested. The recognition of such a doctrine has never been suggested either by Congress or the Supreme Court. A just and reasonable rate must be one which respects alike the carriers' deserts and the character of the traffic. It can not be a rate that takes from the carrier a profit and thus favors the shipper at the carrier's expense, nor is it one which compels the shipper to yield for the transportation given a sum disproportionate either to the service given by the carrier or to the service rendered to the shipper. The words "just and reasonable" imply the application of good judgment and fairness, of common sense and a sense of justice to a given condition of facts. They are not fixed, unalterable, mathematical terms. Their meaning implies the exercise of judgment, and against the improper exercise of that judgment the Constitution gives protection, at least as far as the carriers are concerned.

The protestants against the increase in the rates from the Pittsburgh district have announced that they would not press their protests during the pendency of the present national emergency and have requested that the determination of the questions in issue be held in abeyance until such time as competitive conditions shall indicate the advisability of their consideration by the Commission. Counsel representing the West Virginia, Kentucky, and Tennessee districts, recognizing that the carriers' operating returns have suffered a marked decline since last October and that all signs point to a continuance of the adverse conditions for some time to come at least, conceded in behalf of their clients in the closing sessions of the hearing that the carriers probably needed more revenue to offset the rising costs and expenses of operation, and stated that they were not opposed to a reasonable increase in rates provided all rates—i. e., from the Ohio districts as well as from the Crescent—were increased by the same amount. Their objection to the proposed rates is based upon the fact that increases are proposed from the Crescent only and that the differential would thereby be increased or widened. But it is not these protesting operators and shippers of the Crescent alone who would be affected by an increase in rates. True, an increase in the rates from the Crescent without a corresponding increase from Ohio might affect the competitive situation between the respective groups. It is the consumer, however, upon whom in the last analysis the real burden of the increased rates fall and, except for the Michigan complainants and protestants, the consumer is not here and has not been heard in this proceeding.

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It is apparent from the record that the heaviest consumers of Crescent coal in affected territory are the operators of by-product coke ovens, blast furnaces, and other large manufacturing and industrial concerns. Although the record gives no idea of the apportionment, the consumption for strictly domestic purposes is doubtless insignificant when compared with the vast tonnages used for all other purposes.

The law contemplates that the shipper, and in this instance the consumer, shall be protected against the exaction of unreasonable and unduly prejudicial rates, but it recognizes also that rates must be fair and compensatory to the carrier. It is fundamental that rates must be reasonable both as to the shipper and the carrier. The protestant operators on the Norfolk & Western undertook to show that the Norfolk & Western Railway did not stand in need of any increased revenues. A complete analysis of the affairs of the Norfolk & Western was made by an expert accountant and engineer of recognized ability. It may be fairly stated that the evidence with respect to the conditions and affairs of this carrier shows that from its reorganization down to a year ago efficient management had brought the properties to a very sound condition and that, based upon the conditions as of that time, its financial situation was most satisfactory.

The protestants whose coal mines are served by the Norfolk & Western estimate that an increase of 15 cents in rate to affected territory means an increase in the total freight charges paid by shippers on the lines of this carrier of approximately one half million dollars per year. This, of course, would not all accrue to the Norfolk & Western Railway. The westbound tonnage originating on the Norfolk & Western has increased over 400 per cent during the period from 1905 to 1915. The evidence of record, so far as it discloses the distribution of coal from the Norfolk & Western, indicates that the increased revenue will be divided among a number of carriers.

The analysis of the Norfolk & Western's financial condition involving an examination of its operating conditions and expenses does not take into consideration the rise in the cost of operating expenses due to the causes already referred to and also to the general increase in employees' wages, because the analysis was made prior to the time these changed conditions had become apparent. The total fuel coal consumption of the Norfolk & Western Railway in 1916 was 2,834,432 tons. The company's expenditures for this coal at an average cost of \$1.14 per ton amounted to \$3,229,735. The testimony shows that for its fuel requirements this year that company will be obliged to pay an average price of about \$2. Applying this unit price to the company's estimated requirements for 1917 of 3,000,000

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tons, the estimated expenditure will be \$6,000,000, an increase in this single item of operating expenses of \$2,580,000.

Rates on coal from each of the three general origin groups in this extensive producing territory must in all probability continue to be made on the group basis. The Norfolk & Western Railway is but one of the many lines originating and engaged in the transportation of coal in this region. The group basis of rates, if it is to be maintained, can not be fixed with a view to the condition and requirements of the Norfolk & Western Railway alone. The question of the reasonableness of the increased rates must therefore be determined upon consideration of the entire situation and of the interest of all lines serving this extensive origin territory. It is not alone the line that can handle the traffic with the least cost that determines the question whether these proposed rates are justified. *Receivers & Shippers Asso. v. C., N. O. & T. P. Ry. Co.*, 18 I. C. C., 440, 464; *Commercial Club of Superior v. G. N. Ry. Co.*, 24 I. C. C., 96, 102, and *Newport Mining Co. v. C. & N. W. Ry. Co.*, 33 I. C. C., 645.

Evidence was introduced showing the rate of return on property investment as shown by the records of the 16 originating coal-carrying lines respondent in this proceeding, for the fiscal years 1905 to 1916, inclusive, and for the three 4-year periods, as shown in respondents' exhibit reproduced in the following table:

TABLE No. 12.—Rate of return on investment, 16 railways,¹ fiscal years 1905 to 1916.

[Mileage represented June 30, 1916, 28,798 miles.]

Year.	Rate of return (per cent).	Year.	Rate of return (per cent).
1905.....	5.71	1913.....	5.06
1906.....	6.27	1914.....	3.93
1907.....	6.11	1915 ²	4.47
1908.....	5.18	1916 ²	6.92
1909.....	5.47	Four-year period average:	
1910.....	6.28	1905 to 1908.....	5.81
1911.....	5.02	1909 to 1912.....	5.47
1912.....	5.16	1913 to 1916.....	5.13

¹ Baltimore & Ohio; Bessemer & Lake Erie; Chesapeake & Ohio; Cincinnati, Hamilton & Dayton; Cleveland, Cincinnati, Chicago & St. Louis; Hocking Valley; Kanawha & Michigan; Norfolk & Western; New York Central; Pennsylvania Company; Pennsylvania Railroad; Pittsburgh & Lake Erie; Pittsburgh, Cincinnati, Chicago & St. Louis; Toledo & Ohio Central; Western Maryland; and Wheeling & Lake Erie.

² Includes investment and income of Lake Shore & Michigan Southern; Chicago, Indiana & Southern, and certain small lines merged into New York Central on January 1, 1915.

A like statement for 32 principal railways involved in the transportation of coal from the Crescent districts covering the same years and four-year periods shows similar results. For these 32 carriers the rate of return was 6.71 per cent for the prosperous year of 1916.

The rate of return for the respective four-year periods was as follows:

	Per cent.
1905 to 1908.....	5.59
1909 to 1912.....	5.37
1913 to 1916.....	4.90

It will be observed that the last four-year period, which included the exceptionally prosperous year of 1916, shows a material decline in the rate of return over the preceding four-year periods.

Upon consideration of all the evidence adduced, much of which it is here impracticable and unnecessary to set forth, we find that the proposed increased rates have been justified.

THE DIFFERENTIAL—OHIO VS. CRESCENT.

The salient point in the controversy between the Ohio and Crescent operators is the measure of the differential that should obtain between the Ohio districts and the Crescent districts south of Pittsburgh. This controversy arises because of the keen competition existing in the coal trade and the conviction of the Ohio operators that a 25-cent differential does not give due regard to the differences in distance between the Ohio and West Virginia districts, and operates to deprive them of the benefit of their geographical location and their relative proximity to the markets in affected territory. They assert that the differential should not be less than 50 cents.

There does not seem to be complete unanimity of views between the protestants, however, upon the question of the real issue involved. Upon brief one group of protestants states:

The sole question in this case is, therefore, one of differentials, and that is to say, solely a question of the relative adjustment of rates as between Ohio on the one hand and the Crescent on the other. The rates from the Ohio district to affected territory for an average distance of 340 miles (see Appendix C) being the basis upon which rates are to be measured from the Crescent to affected territory, the sole issue presented in the instant case (I. & S. Docket No. 774) is whether, in relation to the rates from the Ohio district to the affected territory, the rates from the Crescent to the affected territory, for an average distance of 449 miles (see Appendix D) are properly lined up—the spread being 109 miles.

Upon the hearing, counsel representing another group of operators took the position that the case was purely one involving advanced rates, in which the law casts upon the carrier the burden to show that the proposed rates are just and reasonable, and that the controversy between the shippers and between shippers and carriers involved incidentally, as it were, a struggle for commercial advantages with which the Commission had nothing to do. Summed up tersely, counsel said:

We represent the coal operators on the Norfolk & Western Railway, and we shall treat this proceeding as dealing with a transportation question between

the carriers and the shippers, and not a proceeding seeking to adjust the commercial advantages and disadvantages between different coal-producing fields by means of changes in freight rates * * *. We take this position notwithstanding the fact that the carriers have frequently stated this is a differential case. We believe that this is not a case of the fixing of differentials further than the fixing of reasonable rates may be said to fix the differential.

As heretofore stated, the chief purpose of the carriers in increasing the rates from the Crescent to the affected territory was to effect a readjustment of the relation of rates as between Ohio and the Crescent, and was not originally one of increasing their revenues. The latter consideration, however, by reason of changed circumstances and conditions arisen since the inception of the proceeding, has become the paramount question so far as the carriers are concerned.

The immediate impelling causes of the carriers' action in first applying to the Commission for an investigation and adjudication of the differential question and later filing the increased rates have, in a general way, already been stated in this report. The conditions in Ohio which in 1915 reached a stage that impelled the carriers to take action to increase the differential between Ohio and the Crescent may be thus summarized: (1) The reduction via the Hocking Valley of the rate from the Hocking district to Toledo from \$1 to 85 cents. (2) The pending suits brought by the United Mine Workers and the No. 8 district interests. (3) The great reduction which the carriers feared might be made in their revenues if the complainants in these suits should prevail. (4) General internal conditions as represented to them by the Ohio operators or of which the carriers and the public had general knowledge, viz, the extensive and long-continued strikes; the so-called antiscreen law; the more or less general agitation of the coal rate question resulting in the introduction in the state legislature of bills looking to a general reduction of rates on coal; idleness and want of Ohio miners; the claims of Ohio operators, shared by the Ohio railroads, that the differential was too narrow; the falling per cent in the production of Ohio compared with the other and adjoining coal-producing states; the fact that the mines in Ohio were old and that some of them were apparently approaching exhaustion; that operators having mines in both Ohio and West Virginia conceded that a wider differential could be maintained; that the price of Ohio coal was advancing while that of West Virginia coal was declining; that the value of West Virginia coal was greater than that of Ohio; that Ohio operators claimed they were being driven out of the markets that they customarily supplied, not only in the state of Ohio, but in the territory west thereof; that this business was being lost principally to West Virginia and Kentucky mines; that the cost of labor and therefore of production in Ohio had materially increased; and that there had been an extensive development of coal

properties and extensions of railroads in West Virginia and eastern Kentucky, etc.

It must be understood that the respondents are not attempting to justify the proposed rates upon the recitals of the Ohio operators. The carriers' witness admitted that many of the facts alleged were not within his own knowledge but were matters of hearsay. These matters, immaterial, insufficient, and improper as they may be, when urged upon the Commission as factors to be considered in rate making, evidently had their effect upon the representatives of the carriers, and undoubtedly had much to do with causing the carriers to file increased rates from the Crescent.

As stated by counsel representing one group of West Virginia protestants, the character of this evidence introduced by the carriers, "raising this commercial issue between these two coal fields has made it necessary, in the opinion of some of the counsel representing some of the (other) West Virginia coal interests, to go fully into the question of such competition in order to show that the keen competition alleged by the carriers to be operating to the injury of the Ohio fields is due to causes other than the amount of the existing differential in freight rates between Ohio and West Virginia."

Briefly, the evidence offered by those protestants who have thought it necessary to rebut the hearsay evidence of the carriers relative to the commercial conditions and the competitive situation may be summarized, as is done in their brief, under the following topics: Quality of coal; specialty coal; freedom from labor troubles in West Virginia, eastern Kentucky, and Tennessee; uninterrupted deliveries; marketing of lump coal the year around produces screenings to sell for industrial purposes; close prices; modern machinery; preparation and cleaning of coal; aggressive salesmanship; leasing system; extension and construction of new lines in West Virginia and Kentucky; method of purchasers in contracting for coal on the basis of actual value in heat units; and the different character of semibituminous or so-called smokeless coals produced in New River and Pocahontas districts which, owing to their special properties and uses, have no competition from the Ohio districts.

The West Virginia protestants contend that "neither the carriers nor the Interstate Commerce Commission has power to equalize qualities of coal in two producing coal districts under the plea of value in competing service." This seems to beg the question, because the Commission does not assume that it may equalize qualities of coal produced in these competing districts, and both the Ohio shippers and the carriers disclaim any purpose of attempting to bring about such a result.

The evidence raises the question whether or not, considering all the circumstances and conditions of transportation, the present adjustment is not one which was made for the purpose, or at least has had the effect, of enabling the lower Crescent districts to overcome certain natural disadvantages of location and distance contrary to the purpose and intent of the law.

The Commission may not lawfully do or attempt to do anything to neutralize the natural disadvantages which one locality, or district, or group of mines may have in its competition with another, but carriers, in fixing rates, may give consideration to competitive conditions so long as no undue prejudice or undue preference results, and the Commission may properly inquire into such conditions when the validity of a specific rate or general adjustment is brought in issue. We shall, therefore, examine the evidence (1) with respect to the competitive situation; (2) with respect to the manner and degree in which the long-established differential between Ohio and the Crescent has affected the movement of traffic; and (3) with regard to the changed circumstances and conditions at present attending the transportation of the coal traffic from the inner Crescent as compared with the circumstances and conditions attending transportation from the Pittsburgh district when the differential of 25 cents was first fixed as between Ohio and the Pittsburgh district.

THE COMPETITIVE SITUATION—CHARACTER AND QUALITIES OF COAL.

The character and qualities of coal have played an important part in the competition between Ohio and the Crescent south of the Pittsburgh district. By character of coal is meant the classification of coals as smokeless, splint, by-product, gas, locomotive, steam, or domestic. The qualities of coal refer to the impurities and involve a consideration of the amount of ash, sulphur, dirt, and other foreign substances in the coal.

Bituminous coals are divided into what are known as strictly bituminous or high volatile and semibituminous or low volatile coals. The coals of the inner Crescent produced in the Jellico, Kanawha, Kenova-Thacker, Elkhorn, Fairmont, and Pittsburgh districts are known as high volatile coals, while the coals of the outer Crescent mined in the Stonega, Clinch Valley, Pocahontas, New River, Cumberland-Piedmont, and Meyersdale districts are generally of the low volatile variety.

THE KENTUCKY-TENNESSEE COALS.

Eastern Kentucky and Tennessee coals are generally subdivided into gas, and by-product, domestic, and steam coals. Some of the eastern Kentucky coals are of such character that they have no

counterpart among the coals of Ohio for domestic use. It was testified that the gas and by-product coals of eastern Kentucky are of a very superior quality.

WEST VIRGINIA COALS.

West Virginia high volatile coals are roughly classified as splint and gas coals. The splint coals are of a hard, firm structure, the lump being used for domestic purposes and the resultant screenings for steam purposes. The gas coals are of a soft, friable character. They are principally used in the steam trade and to a lesser extent for by-product and for gas manufacturing purposes. The Kanawha, Kenova-Thacker, and Coal & Coke Railway districts of West Virginia produce both splint and gas high volatile coals. The bulk of tonnage from the Kanawha district is gas coal which is a good by-product, gas and steam coal. These West Virginia coals sell in competition with each other, with other Crescent coals, and with Ohio coals in affected territory. The semibituminous or smokeless coals of the Pocahontas and New River fields are regarded as probably the standard steam coals of the United States. They are used by the United States Navy and find large markets as far north and west as Chicago and even beyond. In cities in which antismoke ordinances are in force they are much favored because of the small amount of smoke given off in combustion. The Pocahontas and New River coals are low in ash, sulphur, and phosphorus and are excellent for beehive coking. When mixed with a large percentage of high volatile coal they are also available for by-product purposes.

The Fairmont district, which lies just south of the Pennsylvania state line in northern West Virginia, produces a high volatile coal. It is in the Pittsburgh vein, and the bulk of the coal shipped to affected territory is sold for steam purposes in competition with Ohio and Crescent coals, and especially with No. 8 Ohio coal, the latter being also a part of the Pittsburgh vein. In Indiana, Fairmont coal sells in competition with Indiana coal for use in the manufacture of gas.

West Virginia is not a large manufacturing state and what industries it has are in many instances supplied with natural gas for fuel. Its coal must therefore find markets outside of the state. Indeed, it is estimated that not more than 10 per cent of the coal produced in West Virginia is consumed within the state, the other 90 per cent finding its markets in the east, west, and northwest.

PENNSYLVANIA COALS.

The coal from the Pittsburgh district of Pennsylvania, except that portion shipped to the northwest via the Great Lakes, is almost

entirely consumed in the Pittsburgh district or in the short-haul territory of the Valleys and Cleveland. Less than 1 per cent of the coal from the Pittsburgh district, it was testified, is sold in affected territory. Connellsville district, as hereinafter explained, has never shipped coal in any considerable quantities, because the production of the district has hitherto been almost wholly given over to the manufacture of coke in beehive ovens within the district.

OHIO COALS.

The No. 8 or eastern district of Ohio is, as stated, an extension of the Pittsburgh vein and produces a good quality of steam and domestic coal. Most of its output is sold in the steam trade. It is estimated that this field includes about 500,000 acres. Of this area 75,000 acres have been developed, 40,000 acres of which are more or less exhausted. The No. 8 is the largest district in Ohio and contains more virgin territory than any other. Its output is rapidly increasing. In the Hocking district there are about 260,000 acres (thick and thin vein) still unmined. Hocking produces a fair steam and domestic coal which is used almost entirely for these purposes.

The Cambridge and Pomeroy districts are comparatively small. Their coals are mostly sold for steam purposes and to a small extent for domestic use.

The Jackson and Massillon fields produce the highest quality of domestic coal in Ohio, their coals comparing favorably with the best Crescent domestic coals. These fields, however, are becoming exhausted.

It is asserted by the Crescent operators, admitted by the Ohio operators, and concurred in by the carriers, that Crescent coal is superior to Ohio coal for practically every purpose. Ohio produces no by-product coal and very little gas coal. So far as these coals are concerned, therefore, no comparison is possible and practically no competition exists. If we exclude Jackson and Massillon coals from consideration, it is certain that Crescent coals are much superior to Ohio coals for domestic purposes. The bulk of Ohio coal not used for locomotive fuel is sold in the steam trade, and the testimony stands uncontradicted that in this field also Crescent coal has a pronounced advantage in quality. Considerable testimony was given as to chemical analyses showing the relative qualities of Ohio coals as compared with Crescent coals. A very interesting and comprehensive tabulation of tests of Ohio and Crescent coals was introduced in the record by a witness who is a professor of metallurgy in the Ohio State University. All of these analyses supported the general statement that Crescent coals are higher in heat units and lower in impurities

than Ohio coals. The testimony of the chemist in regard to these coals is corroborated by that of the large consumers. Many witnesses from Michigan manufacturing plants testified that they had abandoned the use of Ohio coal and had adopted West Virginia or Kentucky coals because experience had clearly demonstrated the superiority of the latter. Generally the testimony of the consumers was to the effect that West Virginia coal because of its greater efficiency would be preferable to Ohio coal even if the rates from West Virginia were increased.

EXTENSION OF THE DIFFERENTIAL.

Competitive conditions, primarily, determined the measure of the differential between Pittsburgh and Ohio mines when it was originally fixed at 25 cents. As the lower districts in the inner Crescent group were opened up and the coal they produced began to seek a market, competition caused the carriers serving them to apply the Pittsburgh basis of rates, the fundamental purpose being to put the newer districts in competition with the old; thus the Pittsburgh basis was gradually extended so that the newer districts were given the same rates as Pittsburgh to all points in central freight association territory west of the Sandusky-Galion line in practical, if not absolute, disregard of distance and all transportation conditions that ordinarily are taken into consideration in the making of rates. The West Virginia mines had not been opened up when the differential of 25 cents between Ohio and Pittsburgh was established. The differential was first made without regard to traffic from West Virginia and it was not foreseen that the differential would ultimately be applied as a uniform differential between the Ohio districts and such an extensive group as has resulted from the development of the mining districts in West Virginia, eastern Kentucky and Tennessee, and their inclusion in the inner Crescent group. The differential as applied to the later developed districts of the Crescent may fairly be said, therefore, to take no account of transportation conditions or of transportation costs. It was adopted by the lines serving the later developed districts of the Crescent to meet commercial conditions and to put those coals in competition with Ohio coals and the coals from the northern part of the Crescent.

With the exception of the Connellsville intervention—and Connellsville belongs to no group distinctly—there is no demand for any change in the origin grouping. Except for the Canton Chamber of Commerce demand, there is no request or purpose of any of the parties to change the destination groupings save where made necessary by the line of demarcation between affected and nonaffected territory.

DISTRIBUTION OF COALS.

We come now to a consideration of the distribution of coal from the Ohio and Crescent districts so far as it appears of record. Owing to the fact that prior to the initiation of this proceeding there had been no division of central freight association territory into "affected" and "nonaffected" territory, the carriers were unable to furnish figures showing the shipments of coal from the Crescent to affected territory, except for the year 1915, and were able to show shipments from Ohio mines to this territory only for the years from 1910 to 1915.

The coal from all of the Crescent districts, except perhaps from Kentucky and Tennessee, is shipped both east to tidewater and west and northwest of the Ohio River. The record in this case does not disclose the percentages of the east and west shipments from all of these districts, although fairly complete figures are available for the Pocahontas, Clinch Valley, and Kenova-Thacker mines. The division of tonnage from these districts is illuminating, and is as follows:

TABLE NO. 13.—*Comparison of westbound commercial coal shipments (exclusive of lake cargo and vessel fuel coal) on the Norfolk & Western from the Pocahontas, Clinch Valley, and Kenova-Thacker fields, with all eastbound Norfolk & Western shipments from these fields by years from 1900 to 1915, inclusive.*

Year ending June 30—	West-bound commercial coal (tons).	All east-bound coal (tons).	Year ending June 30—	West-bound commercial coal (tons).	All east-bound coal (tons).
1901.....	637,535	4,049,817	1909.....	3,852,137	5,620,015
1902.....	1,048,441	4,074,034	1910.....	5,642,964	6,804,191
1903.....	1,442,338	4,309,185	1911.....	6,297,699	7,369,280
1904.....	1,631,471	4,761,147	1912.....	8,766,102	8,606,270
1905.....	1,971,756	5,609,761	1913.....	9,560,163	8,279,049
1906.....	2,696,322	6,327,926	1914.....	8,834,186	8,883,261
1907.....	2,661,485	6,077,634	1915.....	8,541,357	9,421,196
1908.....	2,914,327	6,866,425			

This table discloses the remarkably rapid increase of the westbound commercial coal shipments on the Norfolk & Western, both absolutely and as compared with the eastbound shipments. During the 15 years from 1901 to 1915 the westbound commercial shipments increased 1,142 per cent, while the eastbound shipments increased only 133 per cent. In 1901 the westbound commercial shipments were approximately one-sixth as much as the eastbound shipments; in 1912 and 1913 the westbound commercial coal exceeded the eastbound coal; and in 1915 the westbound commercial tonnage amounted to 90 per cent of the eastbound tonnage.

For the year 1915 the total shipments from Ohio mines to points in affected territory amounted, according to the carriers' figures, to 2,957,926 tons, while during the same year the total shipments from the Crescent to affected territory amounted to 13,209,000 tons, which originated as follows:

	Tons.
Pennsylvania.....	853, 000
West Virginia and Maryland.....	11, 083, 000
Kentucky.....	1, 240, 000
Tennessee.....	33, 000

In other words, in spite of the fact that the inner Crescent mines are an average distance of 109 miles farther away from affected territory than the Ohio mines, they shipped, in 1915, more than four times as much coal to this territory as did their Ohio competitors. The Ohio shipments in tons from 1910 to 1915 to affected territory, exclusive of lake cargo coal, were as follows:

TABLE No. 14.

To affected territory in—	1910	1911	1912	1913	1914	1915
Ohio.....	1, 729, 098	1, 609, 891	1, 990, 002	1, 961, 793	1, 159, 042	1, 230, 575
Indiana.....	746, 155	600, 996	795, 505	630, 520	338, 739	254, 107
Michigan.....	2, 514, 993	2, 244, 107	3, 064, 057	2, 787, 408	1, 366, 158	1, 370, 018
Vessel.....	103, 636	166, 975	171, 917	215, 831	54, 920	83, 226
Total.....	5, 093, 882	4, 621, 968	6, 021, 481	5, 595, 552	2, 918, 859	2, 957, 926

An analysis of these figures, incomplete as they are, throws some light on the relative distribution of Ohio and Crescent coals, and corroborates other evidence of record. It will be noted that the shipments of Ohio coal to affected territory remained practically stationary from 1910 to 1915, except that during 1914 and 1915—strike years—the shipments decreased. There can be no doubt that the consumption of coal increased enormously in this territory during this period; indeed, one of the Ohio witnesses estimated that the consumption of coal in affected territory has increased 800 to 1,000 per cent in the last 15 years. Clearly Ohio got none of this increase. Indiana and Illinois shipments to affected territory are negligible, and West Virginia and Kentucky coals must have supplied most of the increased demand in this region.

Michigan with its vast manufacturing industries consumes a very large and constantly increasing tonnage of coal; in fact, it was the opinion of one of the Ohio operators that southern Michigan and northern Indiana now consume four or five times as much coal as they did in 1902. The figures in regard to the consumption of coal in this state are quite convincing.

The shipments of Illinois and Indiana coal into Michigan for the coal years ending March 31, 1913, 1914, 1915, and 1916, are as follows:

	Tons.
1913	60, 873
1914	51, 735
1915	19, 763
1916	15, 237

These tonnages are so insignificant that they may be disregarded.

Part of the Michigan consumption is, of course, supplied by coal from the mines in that state. The production of the Michigan mines was as follows:

	Tons.
1910	1, 534, 967
1911	1, 476, 074
1912	1, 206, 230
1913	1, 231, 786
1914	1, 283, 080
1915	1, 156, 138

It will be seen that this production is decreasing and is relatively small. The testimony stands uncontradicted that most of this is consumed locally at Bay City and Saginaw and sold to the Michigan railroads, and that only about 300,000 tons annually are available for distribution throughout the state. This coal is of a very inferior quality, and when it is remembered that Detroit alone consumes between 8,000,000 and 10,000,000 tons of coal, it is evident that Michigan coal has an inappreciable effect upon the market. It must be admitted, therefore, that practically all the coal consumed in Michigan comes either from Ohio or the Crescent. But the figures of Ohio shipments to Michigan, above given, show that the Ohio tonnage to this state has actually decreased since 1910; hence we are driven to the conclusion that not only has the Crescent captured every ton of the increased Michigan consumption during the last six years, but that Crescent coal has actually displaced Ohio coal in many instances. In respect to the distribution of coal in Michigan it is instructive to note the shipments to Detroit and Lansing. The Ohio tonnage to Detroit for the past eight years are shown as follows:

	Tons.
1908	780, 309
1909	921, 747
1910	793, 693
1911	633, 202
1912	1, 008, 749
1913	895, 101
1914	450, 749
1915	528, 584
Total	6, 012, 134

When it is recalled that Detroit consumes annually from eight to ten million tons of coal, it will be seen how small are these Ohio shipments when compared to the consumption. Applying the process of elimination already worked out, it is evident that West Virginia and Kentucky supply the great bulk of the Detroit coal.

As to Lansing, one of the witnesses testified that in 1915 this city consumed 780 tons of Michigan coal, 6,500 tons of Ohio coal, and 80,280 tons of West Virginia and Kentucky coal.

One witness stated that in 1904, 1905, and 1906 Detroit received three-fourths of its supply of coal from Ohio and the rest of Michigan about one-half, while in 1915 only about 12½ per cent of the total consumption of Michigan, exclusive of railroad coal, came from Ohio.

The vice president of the Pittsburgh Coal Company, the largest concern in the Pittsburgh district, with an annual capacity of 31,950,000 tons, testified that his company for the past 12 or 15 years has continuously lost tonnage in affected territory, and that at the present time the Pittsburgh Coal Company and the Pittsburgh district generally sells only 1 per cent of its output in this territory. This is corroborated by the fact, already noted, that in 1915 the total shipments from Pennsylvania to affected territory amounted to only 853,000 tons. Eliminating Pittsburgh coal from consideration the conclusion seems justified that it is the coals from West Virginia and Kentucky that have preempted these choice markets. This conclusion is strengthened when we observe that in 1915 West Virginia, Maryland, and Kentucky shipped 12,323,000 tons of coal to this territory.

What has been said in regard to Michigan is to a large extent true with reference to northern Indiana. Indiana coal is inferior both to Ohio and Crescent coal and finds its chief market in Indianapolis, the "gas belt" of central Indiana, and in Chicago. Only a comparatively small tonnage is sold in northern Indiana. South Bend, Ind., uses about 500,000 tons annually. During the year ending March 31, 1914, 157,952 tons of Indiana and Illinois coal were consumed in South Bend, and for the calendar year 1913, 17,700 tons of Ohio coal. Hence there is no escape from the conclusion that West Virginia and Kentucky mines must have supplied the larger part of the demand. This is the more striking when it is borne in mind that the Indiana fields are from 158 to 293 miles from South Bend, while the average distance over all routes from the inner Crescent to this city is 522 miles. The differential in favor of Indiana coal ranges from \$0.58 to \$1.05, and in spite of this handicap West Virginia coal is able to successfully compete.

Although Chicago is in nonaffected territory, an analysis of the shipments to that great market is illuminating with reference to the competitive situation between the inner Crescent and Ohio. The following table compiled from respondents' exhibits gives the Indiana, Illinois, West Virginia, Kentucky, and Ohio shipments to this city, by years, from 1913 to 1915:

TABLE No. 15.—Tons of coal shipped to Chicago, Ill.

Year.	From West Virginia and Kentucky (inner Crescent).	From outer Crescent.	From Illinois and Indiana.	From Ohio.
1913.....	1,240,353	6,364,413	12,530,819	408,007
1914.....	1,240,551	4,500,159	15,125,328	320,021
1915.....	2,302,077	5,330,819	11,365,443	267,370
1916.....	(1)	(1)	14,000,536	(1)

1 Information not available.

The rates to Chicago from these various mining districts are as follows:

Illinois districts.....	\$0. 57 to \$1. 05
Indiana districts.....	. 77 to 1. 27
Ohio districts.....	1. 05
Inner Crescent districts.....	1. 90
Outer Crescent districts.....	2. 05

Compared with the inner Crescent rates the differentials in favor of the Illinois coal ranges from \$1.33 to \$0.85 and Indiana coal from \$1.13 to \$0.63. Ohio has the usual differential of 25 cents. The fact that under these circumstances West Virginia and Kentucky have been able to sell such a large tonnage in Chicago, and Ohio such a small tonnage, indicates how effective is the competition of the Crescent coals.

The situation of the Ohio operators may now be summed up. Their mines have no outlet by river. Their coal is barred from going east and south by the Crescent coals; on the west are Indiana and Illinois coals; and under the present adjustment of rates they have to a very large extent been driven out of Michigan by the sharp competition of the more distant West Virginia and Kentucky coals. Even within their own state, as has been shown in regard to Columbus, Toledo, and other important consuming points, the Ohio operators are forced to yield a fair portion of the trade to the Crescent districts. In fact, the figures already given show that from 1910 to 1915 a comparatively small tonnage of Ohio coal was shipped to points within affected territory in the state of Ohio.

Many suggestions and theories have been advanced by the protestants to support their contention that no change whatever should be made in the differential. Constructive bases have been suggested

all tending to support that general proposition. Indeed, by the various "yardsticks" applied, the differential might be fixed anywhere from 10 cents to 24 cents instead of 25 cents or 40 cents. But these "yardsticks" are nearly all based on mileage or distance scales, such as have been prescribed by the authorities of the states of Minnesota, the Dakotas, Iowa, and Illinois. The Commission's reports in *Rates on Bituminous Coal*, 36 I. C. C., 401; *Bituminous Coal to Mississippi Valley Territory*, 39 I. C. C., 378, are cited as authority for the determination of a proper differential for the average difference in distance of 109 miles between the Ohio and inner Crescent districts to affected territory. In that case, however, we prescribed a distance scale of reasonable maximum rates for hauls in the southeast in which fourth section questions were involved. We did not there fix any differentials or rates intended to fix or maintain differentials. Differentials can not always with propriety be computed upon a fixed rate per mile. *Alabama Coal Operators Asso. v. S. Ry. Co.*, 21 I. C. C., 230.

We have already adverted to the extension of the Pittsburgh rate to the lower districts in the inner Crescent group in practical disregard of transportation conditions, such action being brought about by the competitive situation just described. The effect, from a transportation viewpoint, of thus enlarging the group is disclosed by the following table which gives a comparison of distances from the Pittsburgh district with those from the inner Crescent to 13 representative points in affected territory:

From—	Average distances to affected territory (miles).		
	Via long routes.	Via short routes.	Via all routes.
Inner Crescent (including Pittsburgh).....	534	449	487
Pittsburgh district.....	472	409	436
Increase in distance from extension of inner Crescent.....	62	40	51
Per cent of increase.....	13	10	12

It will be observed that the extension of the origin group from the Pittsburgh district southward into West Virginia and Kentucky has resulted in a considerable increase in the distance to affected territory, but during this period of expansion of the inner Crescent group there appears to have been little change in the distance from the Ohio districts. In view of the fact that some of the protestants contend that the spread in the differential resulting from the proposed increase in the Crescent rates is unjustifiable from a distance viewpoint it is worth noting that the per cent of increase in distance is greater than would be the per cent of increase in rates if the proposed increases are permitted to become effective. We have

already seen (Table 8, p. 108) that the present average rate from the inner Crescent to affected territory is \$1.70 and the proposed average rate \$1.84, an average increase of 14 cents, or 8.24 per cent. The application to the present average rate of the percentages of increase in distance, as shown by the table next preceding, would produce rates of \$1.92, \$1.87, and \$1.90, respectively.

It appears, further, that the 25-cent differential now applicable as between the Ohio and the inner Crescent groups was originally established as between the Hocking and the Pittsburgh districts on traffic to Chicago. The greater part of affected territory, certainly so far as tonnage is concerned, lies intermediate to Chicago and much nearer the origin territory. Under the generally recognized bases of making freight rates the differential to this intermediate or near-by territory should be greater than to destinations farther distant, irrespective of the increase in the length of the haul under the Pittsburgh rate brought about by the extension and enlargement of the inner Crescent group.

Distance, however, is not the only transportation factor to be considered in fixing the measure of a differential. In the transportation of the coal traffic here involved a greater number of carriers participate in the hauls from the Crescent groups than is the case in connection with the traffic originating in the Ohio districts. It also appears that in the transportation of coal from the Crescent groups bridges across the Ohio River, costly to construct and expensive to maintain, must be crossed, and that no such condition obtains in connection with the transportation from the Ohio districts. We have frequently recognized, in cases before us, the effect that bridges across such rivers as the Ohio and the Mississippi have upon transportation costs in connection with the movement of both freight and passenger traffic, and in three cases recently decided involving the transportation of coal such increased cost was given consideration. *The Wisconsin Rate Cases*, 44 I. C. C., 602, 619; *Campbell's Creek R. R. Co. v. A. A. R. R. Co.*, 44 I. C. C., 574, 577, 578; *Lake Cargo Coal Rates*, pages 159, 187, *post*.

The conclusion to be drawn from all the facts of record and a study of the results upon the development of coal traffic from the Crescent, due consideration being given to transportation circumstances and conditions and the greater service rendered in transportation from the inner Crescent, is that the differential of 25 cents is, and for the future will be, unduly prejudicial to the Ohio districts and unduly preferential of the inner Crescent districts to the extent that it is less than 40 cents per ton, and unduly prejudicial to the inner Crescent districts and unduly preferential of the Ohio districts to the extent that the said differential is more than 40 cents per ton.

THE CONNELLSVILLE INTERVENTION.

The Connellsville Coal Tariff Association, the constituent companies of which produce 6,000,000 to 8,000,000 tons of coal per year out of a total annual production in the district of approximately 30,000,000 tons per year, has intervened in this proceeding for the purpose of securing for the Connellsville district a more advantageous adjustment of rates on westbound coal than it now enjoys.

The intervener has no complaint to make of the reasonableness *per se* of the rates from the Connellsville district; indeed, it has frequently expressed itself as advancing no views on the rate level *per se* and as not opposing the proposed rates. It contends solely that Connellsville, against which there is a differential of 15 cents over Pittsburgh, should have the same rates westbound as Pittsburgh, and particularly is this urged in respect of rates to short-haul territory tributary to Pittsburgh and Connellsville, in which Youngstown and Cleveland are the principal consuming markets. Specifically, the intervener thus states its position upon brief:

(1) The existing westbound differential of 15 cents a ton against Connellsville and in favor of the Pittsburgh, Westmoreland, and Greensburg districts is unjust and unreasonable.

(2) The remedy for the existing situation is to consolidate Connellsville, Pittsburgh, Westmoreland, and Greensburg into one district with a uniform rate west and east.

(3) Connellsville is entitled to the Pittsburgh rate on the short haul west to the Valleys and Cleveland.

The evidence introduced by the carriers in rebuttal of the intervener's demands, as likewise their argument upon brief, is devoted to opposing those demands in respect of rates to short-haul territory. Little or no resistance is made to the intervener's demands, so far as the longer haul territory is concerned.

THE DIFFERENTIALS AGAINST CONNELLSVILLE.

The Connellsville district is surrounded on all sides by other coal fields. On the west and northwest lies the Pittsburgh district; on the north the Pittsburgh, Westmoreland, and Greensburg districts; on the northeast the Clearfield district; while to the east and south lie the Meyersdale, Cumberland-Piedmont, and Fairmont districts.

The position occupied by the Connellsville district in the adjustment of rates on coal, both east and west, is an anomalous one. At the time the intervener's petition was filed and when its evidence was introduced the differentials against Connellsville were as follows:
Eastbound:

Pittsburgh, same as Connellsville.

Westmoreland, 15 cents under Connellsville.

Eastbound—Continued.

Greensburg, 30 cents under Connellsville.

Clearfield, 40 cents under Connellsville.

Westbound:

Pittsburgh, 15 cents under Connellsville.

Westmoreland, 15 cents under Connellsville.

Greensburg, 15 cents under Connellsville.

Part of Clearfield, 10 cents under Connellsville.

Part of Clearfield, 5 cents under Connellsville.

Under this adjustment it will be observed the Pittsburgh, Westmoreland, Greensburg, and Clearfield districts enjoyed differential advantages over Connellsville on traffic both eastbound and westbound. During the pendency of the hearing the Pennsylvania Railroad filed a tariff which gives Connellsville and part of the Pittsburgh district the same rates as Westmoreland eastbound. Neither the eastbound rates nor adjustment are in issue in this proceeding, however, and the carrier's action in no way modifies the intervener's demand that on westbound traffic it be given the same rates as the Pittsburgh, Westmoreland, and Greensburg districts.

There has been no material change in the groupings or differentials affecting westbound rates from the Connellsville, Pittsburgh, Westmoreland, or Greensburg districts since the establishment of the Greensburg rates in 1901. In the case of these origin districts established so long ago, it is sometimes difficult to learn what reasons controlled in their establishment, but the coal traffic manager of the Pennsylvania Railroad, in a proceeding before the Public Service Commission of Pennsylvania in 1916, testified that Connellsville was given a 15-cent differential over Pittsburgh on westbound traffic and the same rates eastbound, because (1) no coal had been shipped west from the Connellsville region except by the United States Steel Corporation to its Sharon, Pa., and Gary, Ind., plants, and no demand had ever been made for rates; (2) the rate from the Connellsville district to Gary was established on the same basis as from the Pocahontas district to Gary, and (3) the 15-cent differential is justified by the difference in distance.

The same witness testified, in substance, that in the last eight or nine years there had been shipped from the Connellsville district to the west for use in the manufacture of coke in by-product ovens from 1,000,000 to 2,000,000 tons of coal per annum. During the calendar year 1916, estimated on a basis of the shipments for the first 10 months, the tonnage from the Connellsville district to the west for coking purposes aggregated nearly 3,000,000 tons. He further testified that Connellsville coal had been going to the Valleys for use in by-product ovens ever since the Klondike field was opened, in 1903 or 1904; that the United States Steel Corporation is a large

user of this coal for by-product purposes at its plant at Sharon and ships large quantities of coal to this point from the Connellsville district.

The intervener suggests that on account of the fact that a number of large consumers of by-product coal in western short-haul territory own their own mines in the Connellsville district, and are therefore compelled to ship from their own mines to their own furnaces regardless of the rate, it is evidently to the interest of the Pennsylvania Railroad and other carriers to maintain higher rates to the short-haul western points. Be that as it may, it is a fact that the Pennsylvania and Baltimore & Ohio railroads, each serving the Connellsville district, refuse to put it on the Pittsburgh basis westbound or to change the differential, which is now 15 cents against it on westbound traffic.

CHARACTER AND QUALITIES OF CONNELLSVILLE COAL—REASONS WHY COAL RATES HAVE HERETOFORE BEEN IMMATERIAL.

The coal produced in the Connellsville district is high in volatile qualities. By reason of its physical structure and chemical properties it is peculiarly well adapted for coking purposes, and has generally been regarded as producing the best metallurgical coke in the United States. Since 1870 the production of this district has been used almost exclusively in the manufacture of coke in beehive ovens located at the mines, and the district has therefore not been particularly interested in nor has there been any demand for coal rates until in more recent years, or since it has become evident that a great economic change is at hand in the manufacture of coke, due to the rapidly developing by-product oven processes and the relative decline of the manufacture in beehive ovens.

The only product of the beehive oven process is coke. It has been known for years that the gases escaping from the beehive ovens contain many substances of great value. That there has been an enormous economic loss to the world of other products now recovered in the by-product oven processes is well known. In 1907 the United States Geological Survey estimated that on a production of beehive coke valued at \$90,000,000 there had been a loss of \$30,000,000 by reason of failure to recover the by-products. It is estimated by the same authority that the progress in scientific methods resulted in the recovery in 1914 of by-products amounting to \$17,500,000 and in 1915 to \$30,000,000.

By-product processes apply all the resources of science to the recovery and conservation of the varied and valuable products obtainable from the destructive distillation of the coals which have hitherto been lost in the wasteful beehive oven processes. These by-products contribute to the necessities of almost every form of industrial activity, to reducing the cost of producing iron and steel,

to the development of dye industries, the production of oils, drugs, chemicals, fertilizers, gas, explosives, and other commodities. It is obvious that economic necessity will in the future require the complete abandonment of the old wasteful methods of beehive coke production.

The by-product ovens are, for economic reasons, generally established at and operated in connection with the plants of iron and steel, gas, chemical, munition, and other large industrial concerns. For some time by-product ovens have been using mixtures of other coals which do not make satisfactory beehive coke, but which when used in by-product ovens make coke that is equal for metallurgical purposes to Connellsville coke. The situation is clearly such that Connellsville, because of the commercial impracticability of installing by-product ovens in the district, must prepare to ship its coal to points at which such ovens are in operation. It was admitted at the time of hearing that the beehive ovens in the Connellsville district have been working to full capacity, but this is ascribed to the abnormal conditions induced by the European war which has created an unusual demand for all American products, including coal and coke. It is the belief of the Connellsville interests that had it not been for these unusual conditions which kept the Connellsville beehive ovens working to full capacity that the district would have been confronted with the necessity of finding a market for its coal in territory in which the demand for and consumption of coal for by-product purposes is so rapidly developing. The intervener and the carriers are agreed that such will be the absolute need when normal conditions shall be restored. The witness for the Pennsylvania Railroad expressed the opinion that, except for a limited quantity for foundry purposes for metallurgical or furnace use, the manufacture of coke in beehive ovens in the Connellsville district will be discontinued entirely within the next few years.

The railroads realize that the coke tonnage from Connellsville will be lost with the development of the by-product oven processes, and that that loss must be offset by a movement of coal from the district. To the end that West Virginia coal might not be substituted for Connellsville coal in eastern by-product ovens, and that the Connellsville tonnage may be conserved or held to its line, the Pennsylvania Railroad on January 1, 1917, put Connellsville and a part of the Pittsburgh district on the same basis as Westmoreland eastbound.

Prior to the building of by-product ovens in the east, a very large proportion of Connellsville coke moved to eastern markets. Since the building of these by-product ovens, however, the proportion shipped east has been steadily declining and is now very small. The intervener showed that there have been built or were

building as of June 1, 1916, at points affected by westbound coal rates, over 8,000 by-product ovens with an estimated annual coal-consuming capacity of approximately 16,000,000 tons, or more than one-half as much as is produced in the Connellsville district, and with an estimated coke-producing capacity of more than 10,000,000 tons, or about one-half as much as has for several years been produced in the Connellsville region. Much of the output of these ovens replaces Connellsville coke.

Prior to 1906 the Connellsville district produced more than one-half of the coke made in the United States. The actual production both for the United States and for the Connellsville district has steadily increased in recent decades, but the proportionate production of Connellsville has been declining as appears from the following comparison for the years 1905, 1910, and 1915, and for the three five-year periods ended with those years:

Year.	Comparison for year.	Comparison for five-year period ended with year.
	Per cent.	Per cent.
1905.....	55	55
1910.....	45	46.4
1915.....	43	45.6

The significance of these percentages should not be overestimated, however, since it may well be that owing to the development of new coal fields and a greater consumption of coke the total production of the country outside of Connellsville has increased more rapidly than has that of the Connellsville district, which has a limited area, and substantially all of which is under operation and a considerable portion of which is nearing exhaustion. The effect of the development of the by-product oven is more apparent from a comparison of the quantity and per cent of coke produced in by-product and beehive ovens, respectively, as is shown by the following figures:

TABLE No. 16.—*Production of by-product coke, compared with that of beehive coke, showing per cent of quantity of each to the total.*

Year.	By-product coke.		Beehive coke.	
	Quantity.	Per cent.	Quantity.	Per cent.
1906.....	12,850	0.01	9,464,730	99.99
1901.....	1,179,900	5.41	20,614,983	94.59
1907.....	5,607,699	13.75	35,171,665	86.25
1908.....	4,801,228	16.14	24,382,369	83.86
1909.....	6,264,644	15.91	33,060,421	84.09
1910.....	7,138,784	17.12	34,870,076	82.88
1911.....	7,847,845	22.07	27,708,844	77.93
1912.....	11,116,164	26.27	32,693,435	73.73
1913.....	12,714,700	27.46	33,584,890	72.54
1914.....	11,219,943	23.47	28,336,971	66.53
1915.....	14,072,896	34	27,508,255	66

From a study of these figures it is apparent that while the tonnage of coke produced in the United States has fluctuated somewhat from year to year, the total production has increased 90 per cent in the period 1901-1915. In the quantity manufactured in by-product ovens, however, there has been a steady increase during the same period amounting to nearly 1,200 per cent. The per cent of by-product coke to all coke has increased during the same period from 5 per cent to 34 per cent, and it is freely predicted that the capacity of by-product ovens now built or building will materially raise the percentage of coke manufactured by the by-product processes. The situation confronting the intervener and its necessities growing out of the changed economic conditions are not factors upon which the Commission may predicate an adjustment of rates or change existing rates if the latter are reasonable and nondiscriminatory, but the facts recited are instructive upon a very interesting situation. They explain why the question of rates, particularly of the relationship from the Connellsville district, has not been raised hitherto, and tend to rebut the presumption of reasonableness that ordinarily attaches to rates and relationships long established. Intervener does not, as we understand it, rely upon its commercial necessities to establish its claim of unlawful discrimination in the adjustment, but rather and principally upon the relative distances from the Connellsville district as compared with the Pittsburgh district, and has introduced elaborate charts and tables of distances to illustrate the geographical situation.

RELATIVE DISTANCES—CONNELLSVILLE V. PITTSBURGH TO AFFECTED TERRITORY.

The carriers and intervener both agree that average short-line distances should properly be used for comparative purposes, but their witnesses do not fully agree upon the method of computing the distances to selected destination points. The carriers in justification of the proposed rates from the Pittsburgh and Connellsville districts put in evidence tables showing the average distances via the short line and via all routes from the respective districts to typical consuming markets in both affected and nonaffected territories. The intervener contends that the distances from the Connellsville district as shown in the respondents' tables are not correctly computed, for the reason (a) the average distances are based upon the number of "shipping points" in the respective districts and that this method leads to error because in some instances two or three stations are listed as shipping points for the same mine, while in other instances three or four mines are served by a single shipping point; (b) that the carriers in computing average distances from the Fairmont district included, as though in the Fairmont district, all the Baltimore & Ohio shipping points in the Connellsville dis-

district, and in computing the average distances from the Connellsville district included only the shipping points on the Pennsylvania, Pittsburgh & Lake Erie, and Monongahela railroads, thereby making their computations of average distances from both the Connellsville and Fairmont districts incorrect and bringing the average distances from the Fairmont and Connellsville districts closer together than they actually are; (c) that the proper method for determining the average distances from the Connellsville district to Pittsburgh or points west is (1) to take the actual distances from each mine over the short line where two or more carriers serve the mine, (2) take as a divisor for ascertaining the average distances the number of mines served and not the number of shipping points which a carrier may arbitrarily list in its tariffs.

The intervenor after revising the respondents' exhibits by the method just indicated finds that instead of the average distance between the Fairmont and Connellsville districts being 13 miles, as indicated by the carriers' figures, it is 24.8 miles. The Baltimore & Ohio Railroad serves the Connellsville district, but the carriers in making up their tables of distances from the "shipping points" in the various districts to representative points show no "shipping points" on the Baltimore & Ohio in the Connellsville district, apparently including all such stations in the Fairmont district. This is due to the fact that the carriers computed their distances from so-called "shipping points" in the Connellsville and Fairmont rate districts, respectively. The intervenor has based its computations upon the distances from the mines in the geographical districts as determined by the listing of the state mine inspectors in Pennsylvania and West Virginia.

Differences resulting from these methods, however, are practically negligible. For instance, the Pennsylvania Railroad lists 277 shipping points in the Connellsville district. The intervenor finds after correcting the respondents' lists that the average distances from the "shipping points" to Pittsburgh would be 64.7 miles; computing the distances from the mines in the Connellsville district it finds the average distance to Pittsburgh to be 64.4 miles. It gets an average distance of 32.4 miles from mines in the Pittsburgh district to Pittsburgh proper. Combining the aggregate distances from all of the mines in both Pittsburgh and Connellsville districts and dividing the aggregate mileage by the total number of mines, that is to say, applying to distances from the mines the same methods applied by respondents in reference to shipping points, the intervenor gets a combined average distance of 43.8 miles, or only 11.4 miles greater than the average distance from all mines in the Pittsburgh district to Pittsburgh. Otherwise stated, the intervenor finds that if Connellsville and Pittsburgh districts should be merged into one district

the average distance from all the mines in the enlarged district to Pittsburgh, and therefore to points beyond Pittsburgh to which the distances are computed over Pittsburgh, would be increased only 11.4 miles.

Predicated upon its method of computing average distances from all the mines on all the railroads serving the respective rate groups, the intervener shows the percentage of increase in the average distance from the combined Pittsburgh-Connellsville districts over the average distance from the Pittsburgh district to Cleveland, Toledo, and South Chicago, respectively, as follows:

TABLE No. 17.

From—	Number of mines.	To Cleveland (miles).	To Toledo (miles).	To South Chicago (miles).
Connellsville rate group.....	147	218.3	341	525.7
Pittsburgh rate group.....	268	181.3	297.2	508.3
Combined Connellsville and Pittsburgh rate groups.....	415	192.6	312.7	511.2
Increase (per cent).....		6.2	5.2	1.6

Addressing themselves to the intervener's demand for equal rates with Pittsburgh to short-haul territory, the respondents show the average short-line distances from the Pittsburgh and Connellsville districts to Youngstown and Cleveland to be as follows: From Pittsburgh to Youngstown, 96 miles; to Cleveland, 168 miles. From Connellsville to Youngstown, 137 miles; to Cleveland, 213 miles. There is no substantial difference between the intervener's and respondents' figures except from the Pittsburgh district to Cleveland. Here the intervener shows the distance as 181.3 miles, or 13.3 miles longer than that shown by respondents in the table above. The difference arises from the fact that intervener computes the distance over the Pittsburgh & Lake Erie Railroad to Youngstown, thence New York Central via Ashtabula to Cleveland. The short line is via the Pittsburgh & Lake Erie to Youngstown, thence Erie Railroad to Cleveland, over which route it seems the traffic actually moves. The greater distance to Cleveland set up by the intervener would affect the relative distances between the Pittsburgh and Connellsville districts and Cleveland, but it may be fairly said that the differences in average distance resulting from the application of the different methods of respondents and intervener are not sufficient to affect the comparisons materially. The difference in distance between the Pittsburgh and Connellsville districts to Cleveland is 45 miles, according to respondents' method, instead of 32, as set up by the intervener. To Youngstown, according to respondents, the difference in distance from the respective districts is 41 miles. Respondents contend that a differential between the rates of 15 cents, or 21 per cent higher

from Connellsville than from the Pittsburgh district, is properly related to the difference in distance of 41 miles, or 42.7 per cent to Youngstown, and that the difference in the rate of 15 cents, or 15 per cent higher from Connellsville than from Pittsburgh, is properly related to the increase in distance of 45 miles, equivalent to 27 per cent to Cleveland.

A detailed discussion of the distances and methods of computing the same to Lake Erie ports will be found in the report in *Lake Cargo Coal Rates*, pages 159, 170, *post*.

EXTENT OF THE PITTSBURGH DISTRICT.

The present Pittsburgh district is approximately 61 miles north and south by 78 miles east and west. Were the Pittsburgh and Connellsville districts to be combined in one, which would be the practical effect if the intervenor's petition were granted and Connellsville given the same rate as Pittsburgh westbound, the enlarged area of the combined district would be approximately 83 miles north and south and 78 miles east and west.

The area of the combined districts, according to intervenor's leading witness, would be less than that of three other competitive districts, viz, (1) the Kanawha, Kenova-Thacker districts; but, while Kanawha and the Kenova-Thacker districts take the same rates, they are two distinct, separate districts and are not even contiguous. The grouping of these districts has never been considered by the Commission and has not therefore been approved, as the intervenor's witness seemed to think. (2) The Middlesboro-Jellico district, which is more extensive than the consolidated Pittsburgh-Connellsville district would be if intervenor's figures are correct; and (3) the so-called Springfield group, in Illinois, which is also larger than the consolidated Pittsburgh-Connellsville district would be. The Commission refused to divide the Springfield group upon complaint alleging that it was unusually large; however, the length of hauls there involved were much longer than from the Pittsburgh or Connellsville districts to this short-haul territory. *The Illinois Coal Cases*, 32 I. C. C., 659, 674. The carriers contend that the extension of the Pittsburgh group as proposed would deprive near-by mines of the benefit of their location. Moon Run mine, on the Pittsburgh & Lake Erie Railroad, in the Pittsburgh district, is said to be only 60.68 miles from Youngstown. The most distant mine in the Connellsville district is the Eagle mine, on the Baltimore & Ohio Railroad, 161 miles from Youngstown. To Cleveland the distance from the Moon Run mine is 128 miles and from the Eagle mine 228 miles. Respondents argue that the establishment of the rates contended for by the intervenor would therefore create a rate group of approximately 100 miles in length, and the size of

such a group would be out of all proportion to the length of haul to the short-haul territory.

The intervener contends that since the Pittsburgh, Westmoreland, and Greensburg districts are given the same rates westbound the carriers can not consistently refuse to give Connellsville the same rates, and that to do so would not have the effect of materially increasing the area of the common rate group.

It is shown by the intervener that the entire Connellsville district was given the same rates to Chicago and Toledo as the Pittsburgh district by the Baltimore & Ohio Railroad during the period from July 14, 1902, to May 6, 1904, and that to Cleveland and Youngstown, in short-haul territory, the rates were for a brief time the same. Since the dates mentioned, however, the rate from Connellsville has been 15 cents higher than from Pittsburgh. Prior to that time the facts are not disclosed, nor does it appear that the tariffs of any other carriers ever made equal rates from the two districts.

The distances from Connellsville to the selected points in affected territory covered by the respondents' exhibits, while greater than from Pittsburgh in all instances, are less than from Fairmont in 11 out of 13 instances and less than the combined averages from Kanawha, Pittsburgh, and Fairmont in 10 out of 13 instances.

In the adjustment of westbound rates on coke, Connellsville has the same rates to points in affected territory as the Pocahontas, Kanawha, and Fairmont districts, from which, as we have seen, the distance is greater than from Connellsville, yet the rate on coal from Connellsville is 15 cents more than from the Fairmont district.

The intervener contends that the placing of Connellsville on the same basis westbound as Pittsburgh, Westmoreland, and Greensburg would not operate to decrease the respondents' revenues, and this for the reason that it takes about $1\frac{1}{2}$ tons of coal to produce a ton of coke in beehive ovens; while the carrier will eventually lose the revenue from the transportation of a ton of coke, it will receive in lieu thereof the revenue from the transportation of approximately $1\frac{1}{2}$ tons of coal. The coal traffic manager of the Pennsylvania Railroad, while disagreeing with the intervener's methods of calculating the respective revenues on coal and coke, said:

Personally it is my judgment that the transportation of coal will about equalize the loss of coke for two reasons: Because it takes a ton and a third of coal to make a ton of coke and because the specific gravity of coal is about 83 per cent greater than coke. In other words, in the same amount of equipment we can carry 83 per cent more coal than we can carry coke, and it will require less capital investment in equipment.

SIMILARITY OF COALS.

The Pittsburgh vein of coal underlies the Connellsville district. The chemical properties of the coal produced in the Connellsville

Upon careful consideration of the whole record we adhere to the finding in our report on rehearing, *supra*, to the effect that the rate of \$1.50 per 100 pounds, specifically applicable on gas cooking stoves, was the legal rate to apply on the stoves in question.

As shown in our report on rehearing, *supra*, after the first hearing defendants established a rate of \$1.30 per 100 pounds, minimum 24,000 pounds, on coal or wood burning and gas cooking stoves and on combined coal or wood and gas burning stoves, which rate is still in effect.

MEYER, Commissioner, dissents.

No. 7995.¹

NORTHWEST GAS EQUIPMENT COMPANY

v.

OREGON-WASHINGTON RAILROAD & NAVIGATION
COMPANY ET AL.

Submitted October 4, 1915. Decided July 10, 1917.

Charges collected for the transportation of gas cooking stoves and parts thereof in carloads from Greenville, N. J., to Portland, Oreg., not shown to have been unreasonable. Complaint dismissed.

John A. Laing for complainant.

A. W. Hawkins, A. C. Spencer, and H. A. Scandrett for Union Pacific system.

Oscar Furuset and C. A. Hart for Spokane, Portland & Seattle Railway Company, Northern Pacific Railway Company, and Great Northern Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant, a corporation, is a wholesale dealer in gas stoves and ranges at Portland, Oreg. By complaints, filed May 10 and May 18, 1915, it alleges that the rate of \$1.50 per 100 pounds charged by defendants for the transportation of 23 carloads of gas cooking stoves and parts thereof, from Greenville, N. J., to Portland, during the period from March 26, 1913, to August 20, 1914, was unreasonable and unjustly discriminatory to the extent that it exceeded a rate of \$1.30 per 100 pounds contemporaneously applicable on wood and

¹ The report also embraces No. 7995 (Sub-No. 1), Same *v.* Spokane, Portland & Seattle Railway Company et al.

rates. An excessive reshipping rate might produce a reasonable through charge in connection with an unduly low inbound rate and vice versa. It can not properly be argued that a proposal to increase unremunerative reshipping rates could be denied upon the ground that the through charge composed of an excessive inbound rate and the unremunerative reshipping rate is just and reasonable. The converse must also be true, namely, that shippers may not upon like grounds be denied relief from unreasonable or unduly prejudicial reshipping rates. This is also true as to proportional rates that are applicable to shipments going or from beyond and which are not limited as applying only on shipments from or to designated points or territory. Each of such rates must be judged upon its individual merits.

Defendants argue that the application of reshipping rates from Chicago, Peoria, St. Louis, and other points is the result of competitive influences, and that since these rates are made with relation to the Chicago rates they are influenced by the water competition felt at Chicago. The futility of this argument is evident when it is considered that at all of the points accorded reshipping rates the sum of the inbound rates plus the reshipping rates outbound is identical with the through rate from the grain-producing region west of the Mississippi River to the eastern destinations, and furthermore that it is the universal practice to accord transit under the through rates wherever necessary at points along the direct line of movement. At points so located defendants must either equalize in and out rates by means of reshipping rates or provide transit under through rates. *In re Transportation of Wool, Hides, and Pelts*, 23 I. C. C., 151; *Southern Illinois Millers' Asso. v. L. & N. R. R. Co.*, 23 I. C. C., 672; *Missouri River-Illinois Wheat and Flour Rates*, 27 I. C. C., 286; *Fabrication in Transit Charges*, 29 I. C. C., 70; *Henderson Commercial Club v. I. C. R. R. Co.*, 36 I. C. C., 20.

From a consideration of the record we find that the rates assailed are not unjust and unreasonable as local rates on grain from Cairo proper. We are also of the opinion, and find, that the matters and things complained of herein constitute the undue and unreasonable preference and advantage to Cairo's competitors and the undue and unreasonable prejudice and disadvantage against Cairo that is prohibited by section 3 of the act to regulate commerce.

We further find that such unlawful relationship will be removed by the publication of reshipping rates from Cairo to destinations in trunk line and New England territories not more than 1 cent higher than the reshipping rates contemporaneously maintained from St. Louis to the same destinations. In publishing such reshipping rates from Cairo the same regulations for policing the traffic should be prescribed as at the other markets.

sociological conditions, different methods of mining, etc., all of which was excluded.

The position of the West Virginia operators, who offered this evidence, is this: The competitive situation between Ohio and the Crescent is of paramount importance in this case. The ability of the Ohio operators to successfully compete with their West Virginia rivals in the marketing of their respective coals in affected territory depends on a number of elements, one of which is the rate adjustment—the differential—another the quality of the competing coals, and a third the cost of producing these coals. Counsel for the West Virginia operators succinctly states their attitude in the following language:

* * * Our position is simply this, that whatever operates to decrease the power of the Ohio operator to successfully compete in the markets with the West Virginia operator is a proper subject of inquiry in this case, and it does not matter whether that is a labor condition, a natural condition of the mine, or anything else that stands in his way of a successful competition.

This argument is predicated upon a mistaken view of the duty of the Commission. Its fallacy lies in the assumption that in dealing with a competitive situation between producing fields the Commission may, in disregard of transportation conditions, fix rates to equalize commercial and economic disadvantages or approve existing rates that effect such a result. Under the law the Commission can only determine whether the rates are just, reasonable, and nondiscriminatory. In connection with the issue of discrimination competitive conditions must frequently be considered, but it is not within the province of the Commission to probe into mining costs as a factor affecting the ability of the rival operators to compete with each other.

This is obvious when we consider all the elements affecting the question. The cost of mining coal varies greatly not only by districts but even by mines. It may and does change from day to day. The character and quality of the coal, the depth at which it is found, the thickness and purity of the vein, the cost and nature of the mining equipment, the wages of the miners, the hours of labor, the efficiency of the organization, the extent of the operations, the output of the mine, the regularity of the demand, the capital invested, the interest paid on loans, and many other elements enter into a determination of mining costs. These ever-changing factors afford no basis for a rate adjustment. This has been repeatedly recognized by us.

In *Bituminous Coal Operators v. P. R. R. Co.*, 23 I. C. C., 385, 391, we said:

It is clearly beyond the power of the Commission to reduce the Clearfield rate upon the ground urged by complainant. It may well be that in times past rates from this and from other fields have been adjusted with relation to

the cost of mining coal and that the carriers undertook to make a rate upon which all producers would be brought into competition at common markets and rates so adjusted as to leave to the coal operator a reasonable profit upon his investment. Those rates would fluctuate not with respect to the cost of carriage nor to the value of the service as such, but solely with respect to the needs or advantages of the shippers. Upon the shipper favorably situated in location, and having a thick vein of coal at a slight depth and resulting cheap cost of operation, a higher rate would be imposed than upon his neighbor who might suffer under the disadvantage of a high wage scale and a thin vein. It has been repeatedly said by the Commission that it was not our function, nor that of the carriers, to equalize economic conditions. In this case it fairly appears that the profits made by the Clearfield operators upon tidewater coal are slight, and that if rates should be made so as to sustain an industry which because of intense competition within itself, or because of local disadvantages, yields but a slight profit, the present rate should be reduced. But we do not understand the law as permitting us to fix a reasonable rate solely upon this ground.

SHALL THE CRESCENT GROUPS BE MAINTAINED?

With respect to the group arrangement in the territory here involved it seems pertinent to make some general observations. A full measure of justice, i. e., exact justice, is unattainable where a rate adjustment between divergent and conflicting interests depends upon a group system, unless all considerations other than those of a purely transportation character are eliminated. The adjustment prescribed herein does not, perhaps, attain the fullest possible measure of justice. No carrier or shipper is here advocating the breaking up of the present group arrangement, and no witness testified that any such measure was desirable or would effect any relief against the disadvantages of which complaint is made, although counsel for the Fairmont district interests did upon the argument advocate such a measure of relief for their clients. Save for this one exception, the testimony both of the carriers and shippers seems to assume that the maintenance of the present group arrangement is desirable from a commercial and competitive standpoint.

The present grouping may not be wholly justified from a transportation standpoint; but in a case such as this, where the group arrangement is of long standing and business has adjusted itself thereto, the Commission is loath, in the absence of a clear discrimination resulting therefrom, to disturb the arrangement. If, however, differences growing out of rivalry and internecine competition between the shippers from the different groups can no longer be composed among the parties themselves, the Commission will have no alternative but to break up the group arrangement and substitute for the present adjustment a rate basis which will give to each of the several districts its just relation to all other districts. This would probably result in a distance basis or relative distance adjustment radically different from the present basis, but it would approximate

Arkansas, and Kansas to trunk line and New England territories base on St. Louis and do not apply via Cairo, although the route via Cairo would in many instances be somewhat shorter than via St. Louis. From certain points Cairo is entitled to lower in and out rates than is St. Louis, but at present the combination on Cairo from practically all points of origin of grain is higher than on St. Louis. Thus it is apparent that Cairo is at a distinct disadvantage as compared with St. Louis and other competitive points, much greater than the disadvantage, declared by us not to have been undue, of Sioux City as compared with Omaha and Kansas City complained of in the cases referred to above.

In the *Sioux City Commercial Club Case* attention is called to the fact that complainants had not joined as defendants carriers engaged in hauling grain inbound to Sioux City, and in the *Stevens Grocer Co. Case* it is stated that—

* * * When the through rate or charge is made up of separately established rates or charges, applicable to the through business, the through rate or charge must be attacked as violative of the act, although the violation may be believed to be occasioned by a particular factor or factors thereof; in such case the complainant should be prepared at the hearing to prove the unlawfulness of the through rate itself and that this is due to a particular factor or factors. * * *

Proportional rates as such may not be attacked as unreasonable or otherwise in violation of the act unless through rates are also attacked whether there be a claim of reparation or not. * * *

These expressions are particularly emphasized by defendants as indicating that the instant complaint is defective due to the fact that complainant has not included as defendants the inbound carriers at Cairo.

The rule is stated in the *Stevens Grocer Co. Case* more broadly than it should be. In determining whether or not a complainant has been damaged by the exaction of unreasonable or unduly preferential reshipping rates the total through charges paid from point of origin must be considered. But this does not hold true of a determination of the reasonableness or justness of the reshipping rate itself. Reshipping rates are not merely divisions of through rates, but are separately established rates generally published by carriers other than those engaged in the inbound movement and without the concurrence of the latter; and the point of reshipment is a rate-breaking point. A change in the reshipping rates, even though it may affect the through charges, will have no effect upon the inbound rates. The inbound carriers have a right to secure reasonable compensation for their part of the haul by reasonable inbound rates. The reasonableness of such inbound rates is in no manner contingent upon reshipping rates. Furthermore, inbound rates used in connection with reshipping rates generally serve also as local rates. Hence they are subject to review independently of the outbound

Heretofore Cairo has marketed the grain brought thereto in the south and the southeast. For the last two or three years the large increase in the production of grain south and southeast of Cairo has materially lessened the shipments to that territory and now Cairo is compelled to seek an outlet to the east or see her market decline in importance. The rate adjustment complained of prevents Cairo from reaching this eastern territory and so this complaint was filed. In recent years southeastern Missouri has become a great corn-producing section. Complainant asserts that in 25 counties that are tributary to Cairo, and from all of which Cairo is intermediate to trunk line territory, over 1,000,000 bushels of grain are raised annually. These changed conditions make imperative a readjustment of rates from Cairo irrespective of what our action might have been before the changes occurred. The record also shows that in the southern tier of counties in Illinois there is grown $37\frac{1}{4}$ per cent of the wheat raised in Illinois. Considerable grain is also raised in western Kentucky, and much of this is naturally tributary to the Cairo market. Nevertheless Chicago is able to come to Cairo's door and haul grain at an 8-cent rate into Chicago and reship out at a rate of 16.8 cents to New York, at in and out charges as low as the rate from Cairo to New York.

The density of tonnage is practically the same from St. Louis as from Cairo to the points of destination. While the tonnage from Cairo east via the Cleveland, Cincinnati, Chicago & St. Louis Railway is but 7 per cent of such tonnage from St. Louis via the same road, the density of tonnage over the two divisions which serve these points is practically the same. These two divisions meet at Paris, Ill., from which point the transportation of grain from Cairo and St. Louis is over the same rails. The transportation conditions from Quincy, Peoria, and East St. Louis, on the one hand, and Cairo on the other are substantially similar. However, by reason of the fact that St. Louis, Hannibal, and Louisiana are on the west bank of the Mississippi River the transportation conditions therefrom are not so favorable to low cost as are those from Cairo. Defendants admit that, excluding competitive conditions, there are no reasons for different rates from Cairo than from St. Louis, Chicago, and the other markets from which reshipping rates are published.

The lines serving Cairo to the east now haul practically no grain and grain products from Cairo because the higher rates paid by Cairo compared with the reshipping rates paid by Chicago, Peoria, St. Louis, and the other river crossings force the grain movement through these competing markets.

are, and for the future will be, unduly prejudicial to the Connellsville district and unduly preferential of the Pittsburgh district to the extent that the rates from the Connellsville district exceed the rates from the Pittsburgh district by more than 6 cents per short ton.

AS TO CANTON, OHIO.

That the rates from the Pocahontas district in West Virginia to Canton, Ohio, should not exceed the rates contemporaneously in effect from the Pocahontas district to Cleveland, Ohio, and the proposed rates have been justified.

The respondents will be required to remove the unlawful discriminations found to exist against Ohio and in favor of the inner Crescent districts. They will also be required to remove the undue prejudice against the interior Michigan cities and the undue preference of Toledo. In so far as the unlawful discriminations against the interior cities in Michigan must be removed by reductions in the rates to such cities, the reductions may be made effective on five days' notice to the Interstate Commerce Commission and the general public.

Permission having been heretofore given in *The Fifteen Per Cent Case*, 45 I. C. C., 303, 323, to make the rates now under suspension in Investigation and Suspension Docket No. 774 effective on less than statutory notice, no order vacating our suspension order in that case is necessary.

Orders will be entered in accordance with the findings herein.

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APPENDIX A.

LIST OF ORIGINATING CARRIERS SERVING THE VARIOUS COAL DISTRICTS IN THE CRESCENT AND OHIO GROUPS.

Crescent groups.

Pittsburgh district:

Baltimore & Ohio.
Pennsylvania Railroad.
Pennsylvania Company.
Pittsburgh & Lake Erie.
West Side Belt.
Wabash-Pittsburgh Terminal.

Connellsville district:

Pennsylvania Railroad.
Baltimore & Ohio.
Pittsburgh & Lake Erie.
Monongahela Railroad.

Meyersdale district: Baltimore & Ohio.

Fairmont district:

Baltimore & Ohio.
Monongahela Railroad.

Cumberland-Piedmont district: Baltimore & Ohio (Western Maryland).

Kanawha district:

Chesapeake & Ohio.
Kanawha & Michigan.

Coal & Coke Railway district: Coal & Coke Railway.

New River district: Chesapeake & Ohio.

Kenova-Thacker district: Norfolk & Western.

Pocahontas district: Norfolk & Western.

Clinch Valley district: Norfolk & Western.

Tug River district: Norfolk & Western.

Elkhorn district:

Chesapeake & Ohio.
Louisville & Nashville.

Jellico district: Louisville & Nashville.

Stonega district:

Louisville & Nashville.
Norfolk & Western.

Ohio group.

Pomeroy:

Hocking Valley.
Kanawha & Michigan.

Jackson:

Cincinnati, Hamilton & Dayton.
Detroit, Toledo & Ironton.
Baltimore & Ohio Southwestern.
Hocking Valley.

No out of line haul was involved. At the time of movement the tariffs of the Central of Georgia governing reconsignment at Macon provided that carload shipments would be reconsigned at Macon at the through rate from point of origin to final destination under certain conditions not present in this case. Its tariffs now provide for the reconsignment of shipments under the conditions which prevailed as to the shipment in question, at the joint through rate from point of origin to final destination, plus a charge of \$5 for the extra services incident to the reconsignment.

Upon the record, and following *Central Commercial Co. v. L. & N. R. Co.*, 27 I. C. C., 114; 33 I. C. C., 164; and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 523, we find that the defendants should have provided for the reconsignment of the shipment on the basis of the joint through rate of 27 cents per 100 pounds from Troy to Fruitland, plus a reasonable charge for the extra service performed at Macon incident to the reconsignment; also that \$5 would have been a reasonable maximum charge for the extra service performed. We further find that complainant made the shipment as described and paid and bore the charges thereon; that such charges were unreasonable and that complainant was damaged to the extent of the difference between the charges paid and the charges that would have accrued on the basis of the rate and extra charge herein found reasonable, plus the demurrage charges of \$3 assessed at Macon; and that it is entitled to reparation in the sum of \$27.97, with interest.

In view of the fact that the Central of Georgia now permits reconsignment at the through rate plus a charge of \$5 for the services incident to the reconsignment, no order for the future is necessary.

An order awarding reparation will be entered.

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No. 8718.
PEIRSON-LATHROP GRAIN COMPANY
v.
**CHICAGO, BURLINGTON & QUINCY RAILROAD
COMPANY.**

Submitted July 14, 1916. Decided July 7, 1917.

Charges collected on wheat in carloads shipped from Kansas City, Mo., having originated beyond, to Chicago, Ill., stored in transit at Leavenworth, Kans., found unreasonable to the extent that they exceeded the rate contemporaneously applied on wheat from Kansas City, when originating beyond, milled in transit at Leavenworth, and the product transported to Chicago. Reparation awarded.

R. D. Sangster for complainant.
Kenneth F. Burgess for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the grain business at Kansas City, Mo. By complaint, filed March 11, 1916, it alleges that the rate of 15 cents per 100 pounds charged by defendant on five carloads of wheat shipped in November, 1914, from Kansas City to Chicago, Ill., stored in transit at Leavenworth, Kans., was unreasonable and unjustly discriminatory to the extent that it exceeded a rate of 12 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

In September and October, 1914, complainant shipped five carloads of wheat from Kansas City by way of defendant's line to Leavenworth, where it was stored until November, 1914, when 299,170 pounds of the original shipments, all of which originated beyond Kansas City, were forwarded over the same line to Chicago. Charges were collected on the 299,170 pounds in the sum of \$448.74, based on a rate of 3 cents to Leavenworth and a rate of 12 cents beyond. The through rate contemporaneously in effect over the route of movement on wheat originating beyond Kansas City was and is 12 cents. But this rate was inapplicable to the shipments involved as defendant's tariff did not provide for the application of the through rate on wheat stored in transit at Leavenworth, although that rate was and is applicable on grain milled in transit at that point. Effective August 25, 1915, subsequently to the movement of these shipments,

that their rates as published and filed with the Interstate Commerce Commission and also with the several state commissions are of themselves just and reasonable and return only a fair profit for the services rendered.

A reduction in intrastate rates can not fail to affect the interstate rates, including those rates heretofore passed upon and approved by the Commission, and would result in reductions of the carriers' reasonable and just rates, both state and interstate, their net revenues in many cases being entirely wiped out, yet with no benefit to the operators, as it would not settle the paramount question now in dispute, of the proper differentials between the several districts.

The Commission is no doubt aware of the condition of the Ohio miners, as represented from day to day in the press reports within that state, and of the allegations that such condition is due solely to the fact that the rates charged by the carriers are so high as to make it impossible for coal to be produced and marketed in Ohio without loss, while coal from West Virginia is brought into the state and through the state to points north and northwest of Ohio at, it is alleged, unjustly discriminatory rates. These allegations, however, wholly ignore other potent factors which unquestionably have contributed largely to the conditions now prevalent.

It is the belief of the carriers serving the Ohio and Pennsylvania districts that a reduction in the rates on coal between points in Ohio, or from the Pittsburgh district to lake front, would not correct the conditions complained of, and it is believed by many of them that relief can only come by a determination by this Commission of the measure of the differentials which should exist between the various districts.

While it is the belief of many of the carriers represented here that there should be a greater spread in the differentials between the West Virginia districts and the western Pennsylvania and Ohio districts, yet there is no unanimity in that matter among the carriers, nor, as they understand it, among the operators in such districts.

If there were perfect accord between all the carriers and operators with respect to this phase of the question, an adjustment could readily be reached without the necessity for the action which is now urged upon the Commission. By reason, however, of this very divergence of opinion the carriers in Ohio and western Pennsylvania are here making this appeal.

The Commission is fully advised as to the wide scope of this question, involving coal rates in these several districts applicable to over 100,000,000 tons per annum; of the mutual interdependence of all these rates, both intrastate and interstate, and of the very grave importance to all the carriers concerned of a proper and prompt determination of the matter. Is it reasonable to suppose that any state commission should have the inclination or the desire to deal with one phase of a situation such as this, which would nevertheless necessarily involve all the others; for, after all, this is a question so broad in its nature and so vital in its determination that it should, in our judgment, be passed upon by the Interstate Commerce Commission, which could view the matter calmly, dispassionately, and without regard solely to the necessities of any one particular state or community.

It is further suggested that under section 13 of the act to regulate commerce the Commission, in "instituting an inquiry on its own motion as to any matter concerning which a complaint is authorized to be made," may properly assume that complaints of various kinds have actually been made before it by operators in several of the districts charging at least some of these carriers here present and subjecting themselves to the proposed investigation, with undue prejudice and disadvantage.

* * * * *

The carriers from both the Pittsburgh and Ohio districts are therefore here to urge upon this Commission that upon its own initiative it institute an inquiry in which all of the facts necessary for the proper consideration of the subject can be developed, and the question of differentials determined, without doing violence to their revenues, but at the same time affording the protection which the operators in Ohio and Pennsylvania declare is essential to their prosperity if not their existence.

Mr. Duncan, for the Wheeling & Lake Erie Railroad Company, makes the following statement:

"The position of the Wheeling & Lake Erie Railroad Company is somewhat different from that of the other carriers, because it is located within the state of Ohio and serves primarily the coal districts in the eastern part of that state.

"While it serves the Pittsburgh district through the Wabash Pittsburgh Terminal Railway, its activity there is in a negligible quantity compared with its activity in Ohio coal fields. The Wheeling & Lake Erie does not handle any West Virginia coal.

"This company's position is almost identical with that of the coal operators served by it. The importance to it of tonnage furnished by the coal operators lies in the fact that 25 per cent to 30 per cent of the carrier's gross earnings arises from coal tonnage originating in the No. 8 Ohio district. This company believes that transportation differences require a further spread of 15 cents to 25 cents in the existing differential in favor of the Ohio and western Pennsylvania districts in order to give these districts the advantages to which they are justly entitled because of their geographical location with reference to the markets in which the coals from all districts compete.

"This company, believing that the existing rates from the Ohio and western Pennsylvania districts are reasonable, and being anxious to preserve the revenues of the carriers involved, submits that an impartial investigation will show that the interests of all parties concerned will be best conserved if such additional spread (as the facts submitted may justify) is made effective by increased West Virginia rates, thereby maintaining the revenues of the carriers in Ohio and Pennsylvania and increasing the revenues of the carriers of West Virginia rather than by reducing the Ohio and Pennsylvania rates, thereby unnecessarily reducing the revenues of the Ohio and Pennsylvania carriers.

"While this company has not reached a definite conclusion respecting the amount of the spread, yet if a further spread of 15 cents or more is held to be proper and is obtained by reducing the Ohio and Pennsylvania rates the loss in gross revenues of the carriers in those states will be, say, 15 cents per net ton on 70,000,000 tons out of 90,000,000 to 100,000,000 tons of coal involved, namely, 35,000,000 from Ohio and approximately the same amount from Pennsylvania, making the loss in gross earnings per annum approximately \$10,000,000. Is such depletion of earnings of carriers in central freight association territory to be permitted in the face of their need for increased earnings as found by the Commission in the recent *Five Per Cent Advance in Rate Case*?

"The need for immediate action by this Commission is due to the fact that some of the states or their respective public service commissions are threatening to solve the problem in their own way, prompted to such action by the notion that an injustice exists in the present rate adjustment. Unfortunately a single state can not settle the matter, because the real question is not rates *per se*, but the spread in the differentials on the coals moving from Ohio,

Defendant contends that its duty was fulfilled by transporting the shipments over the routes having the lowest published rates; that the rates charged for the services performed, and which are still in effect, are admittedly reasonable; that the fact that no rates for the direct movements were published does not constitute a violation of the act, and that it is liable only for failure to publish rates after reasonable request therefor. No request for rates by the direct routes was made prior to the movement of the shipments, but, as we have seen, defendant waived its disinclination to handle shipments direct to or from Thirty-third street and established rates for that service upon complainant's request.

Upon consideration of all the facts of record we are of opinion, and find, that the charges collected were unreasonable to the extent that they exceeded the charges that would have accrued on basis of the rates subsequently established for the direct movement; that complainant made the shipments as described and paid and bore charges thereon at the rates herein found unreasonable; that it was damaged thereby; and that it is entitled to reparation, with interest. The exact amount of reparation can not be determined on this record. Complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendant for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. No order for the future is necessary.

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coal burning stoves from and to the same points. Reparation is asked. Several of the shipments are barred by the statute of limitation, but our conclusion herein renders it unnecessary to set them forth specifically.

On June 10, 1915, defendants reduced the rate on gas stoves and gas-stove parts to \$1.30 per 100 pounds, and this rate is still in effect. The same rate applies on wood and coal burning stoves. The only question, therefore, remaining to be determined is that of reparation.

In *Boardman Co. v. A., T. & S. F. Ry. Co.*, Docket No. 5585, unreported, relied upon by complainant, we found that a rate of \$1.50 per 100 pounds, charged on gas cooking stoves from various points east of Missouri River to San Francisco, Cal., was misapplied; that a rate of \$1.30 per 100 pounds was legally applicable under defendants' tariffs; and that the rate on gas cooking stoves from and to the points there in question should not exceed the rate contemporaneously applicable on wood and coal burning stoves, namely, \$1.30 per 100 pounds. Reparation was awarded. Subsequently, upon rehearing, we reversed our former finding with respect to the legality of the \$1.50 rate charged and held that such rate legally applied. This holding has been reaffirmed upon second reargument, 46 I. C. C., 352. But our previous finding that the rate on gas cooking stoves should not exceed the rate on wood and coal burning stoves was not modified. In the meantime the rate on gas stoves was reduced to the basis of the rate on wood and coal burning stoves. The charges collected were not shown to have resulted in damage to complainants therein and reparation was denied. 39 I. C. C., 445.

In the present case complainant offered no substantial evidence to show that the rate charged was intrinsically unreasonable or that it was damaged in any specific sum by reason of the alleged discrimination. The complaint must be dismissed, and an order will be entered accordingly.

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APPENDIX C.

[Griggs's Exhibit No. 15—corrected.]

Composite statement, showing average distances and P. T. M. earnings on bituminous coal from all mines in Ohio districts taking the same rate to destinations shown.

Destinations.	Number of shipping points.	Average distance—				Average all routes.		Number of routes.	Present rate.	Revenue per ton per mile.		
		Via short routes.		Via long routes.		Total miles.	Average.			Short routes.	Long routes.	Average all routes.
		Total miles.	Average.	Total miles.	Average.							
Affected territory:												
Bay City, Mich.	156	56,810	364	66,141	424	60,628	389	66	\$1.65	4.53	Miles.	4.24
Detroit, Mich.	143	42,531	273	57,933	371	47,253	303	83	1.15	4.21	Miles.	3.80
Fort Wayne, Ind.	156	38,686	271	52,176	345	43,127	302	62	1.35	4.98	Miles.	4.47
Grand Rapids, Mich.	143	61,068	391	75,984	487	66,669	427	106	1.65	4.22	Miles.	3.86
Jackson, Mich.	156	46,488	292	62,207	399	52,435	336	76	1.35	4.62	Miles.	4.02
Kalamazoo, Mich.	156	54,865	352	73,965	474	62,729	402	117	1.60	4.56	Miles.	3.98
Lafayette, Ind.	156	57,897	371	67,235	431	61,915	397	37	1.50	4.04	Miles.	3.48
Lima, Ohio.	156	33,026	211	40,337	259	35,898	280	41	1.00	4.74	Miles.	4.35
Maclean City, Mich.	156	88,647	568	100,107	643	94,852	608	51	2.15	3.78	Miles.	3.54
Marion, Ind.	143	43,886	307	50,231	351	46,797	327	24	1.30	4.23	Miles.	3.98
Muskegon, Mich.	156	67,765	434	77,837	499	72,420	464	74	1.65	3.80	Miles.	3.56
South Bend, Ind.	156	55,830	358	76,305	489	64,728	415	62	1.55	4.33	Miles.	3.73
Toledo, Ohio.	156	33,266	213	35,866	230	34,320	220	28	1.00	4.69	Miles.	4.55
Totals and averages		2,002	679,715	340	836,444	418	743,771	372	827	1.45	4.26	3.90
Nonaffected territory:												
Champaign, Ill.	140	59,756	427	68,815	492	64,244	459	21	1.85	4.33	Miles.	4.08
Chicago, Ill.	140	58,382	417	78,614	562	65,063	465	101	1.65	3.96	Miles.	3.55
Dayton, Ohio.	140	26,984	193	33,880	242	29,548	211	34	1.00	5.18	Miles.	4.74
Indianapolis, Ind.	197	39,603	311	48,080	379	42,757	337	29	1.30	4.18	Miles.	3.86
Peoria, Ill.	140	70,464	503	94,942	606	74,393	531	34	1.85	3.68	Miles.	3.48
St. Louis, Mo.	105	60,192	573	67,137	639	63,977	609	20	2.10	3.66	Miles.	2.45
Terre Haute, Ind.	140	53,338	381	53,578	383	53,471	382	16	1.65	4.33	Miles.	4.32
Vincennes, Ind.	140	61,165	437	67,909	485	64,545	461	16	1.65	3.78	Miles.	3.58
Totals and averages		1,072	429,884	401	502,955	469	457,948	427	271	1.63	4.06	3.82

APRIL, 1916.

APPENDIX D.

(Griggs Exhibit No. 9—corrected.)

Composite statement, showing average distances and P. T. M. earnings on bituminous coal from all mines in districts taking the same rate as Pittsburgh (inner Crescent) to destinations shown.

Destinations.	Num-ber of ship-ping points.	Average distances.				Num-ber of routes.	Present rate.	Revenue per ton per mile			Pro-posed rate.	Revenue per ton per mille.		
		Via short routes.		Via long routes.				Average all routes.				Revenue per ton per mile		
		Total miles.	Aver- age.	Total miles.	Aver- age.			Total miles.	Aver- age.	Short routes.		Long routes.	Aver- age all routes.	
Affected territory:														
Bay City, Mich.	331	413, 067	497	478, 989	570	489, 448	526	119	81.90	4.12	\$2.05	3.80	3.88	
Detroit, Mich.	331	377, 573	405	418, 785	504	362, 635	436	127	1.40	3.83	1.55	3.06	3.56	
Fort Wayne, Ind.	331	316, 374	390	408, 483	499	346, 439	417	137	1.60	4.21	1.75	3.06	3.70	
Grand Rapids, Mich.	331	316, 374	391	477, 089	574	449, 622	553	150	1.90	4.09	2.05	3.58	4.21	
Jackson, Mich.	331	342, 688	414	454, 508	524	381, 343	460	115	1.85	4.23	1.75	3.25	3.90	
Kalamazoo, Mich.	331	384, 688	463	481, 708	594	436, 371	513	179	1.75	4.00	2.00	3.47	3.86	
Lansing, Mich.	331	368, 016	440	461, 937	523	399, 030	490	48	1.75	4.00	1.85	3.56	3.85	
Lima, Ohio	331	268, 016	323	297, 045	358	282, 270	340	44	1.25	3.87	1.40	3.01	3.45	
Marion, Mich.	331	374, 148	323	377, 938	453	336, 512	405	30	1.55	4.07	1.55	3.84	4.06	
Marion, Mich.	331	448, 324	540	531, 968	640	498, 040	588	98	1.80	3.90	2.05	3.80	4.06	
South Bend, Ind.	331	332, 901	461	464, 807	562	432, 724	522	82	1.80	3.90	1.90	3.19	3.64	
Toledo, Ohio.	331	296, 316	345	313, 380	378	296, 319	355	33	1.25	3.63	1.40	3.70	3.94	
Totals and averages		10, 902	4, 852, 347	449	5, 793, 656	534	5, 264, 336	487	1, 180	3.79	1.84	3.45	3.78	
Nonaffected territory:														
Champaign, Ill.	636	324, 165	510	362, 066	570	343, 211	540	26	2.10	4.12		3.98		
Chicago, Ill.	631	426, 165	513	505, 566	608	455, 566	548	116	1.90	3.70		3.12		
Dayton, Ohio	331	237, 427	286	265, 354	309	244, 580	294	31	1.25	4.37		4.05		
Indianapolis, Ind.	631	310, 666	374	368, 000	428	328, 280	365	37	1.55	4.14		3.92		
Peoria, Ill.	637	376, 947	592	437, 990	688	403, 497	633	59	2.10	3.55		3.05		
St. Louis, Mo.	615	383, 826	624	437, 964	712	406, 715	665	62	2.35	3.77		3.53		
Terre Haute, Ind.	630	398, 667	444	439, 073	529	398, 716	490	43	1.90	4.28		3.96		
Vincennes, Ind.	617	396, 667	473	469, 607	562	419, 053	513	28	1.90	4.03		3.70		
Totals and averages		6, 028	2, 813, 900	467	3, 265, 287	540	3, 001, 468	498	397	4.03		3.48	3.78	

APRIL, 1916.

APPENDIX E.

(Griggs Exhibit No. 12—corrected.)

Composite statement, showing average distances and P. T. M. earnings on bituminous coal from all mines in districts taking the same rate as Pocahontas (outer Crescent) to destinations shown.

Destinations.	Num-ber of ship-pling points.	Average distances.				Average all routes.	Num-ber of routes.	Present rate.	Revenue per ton per mille.			Pro-posed rate.	Revenue per ton per mille.		
		Via short routes.		Via long routes.					Short routes.	Long routes.	Aver- age all routes.		Short routes.	Long routes.	Aver- age all routes.
		Total miles.	Aver- age.	Total miles.	Aver- age.										
Affected territory:															
Bay City, Mich.....	456	262,063	552	395,231	647	372,046	97	\$2.10	3.51	3.24	3.37	\$2.25	3.43	3.77	
Detroit, Mich.....	456	210,106	461	299,562	591	230,663	93	1.60	3.47	2.71	3.17	1.75	3.80	3.46	
Port Wayne, Ind.....	456	296,979	454	267,611	587	228,145	500	3.80	3.96	3.07	3.60	1.96	3.80	3.50	
Grand Rapids, Mich.....	456	363,123	477	317,143	695	297,318	680	2.10	3.64	3.02	3.33	2.33	3.90	3.57	
Jackson, Mich.....	456	216,053	474	286,327	628	245,961	535	1.80	3.50	2.67	3.36	1.96	4.11	3.64	
Kalamazoo, Mich.....	456	246,200	540	318,497	698	275,960	605	2.05	3.80	2.94	3.39	2.20	4.07	3.64	
Lansing, Mich.....	750	397,027	514	446,933	595	417,019	556	1.45	3.68	3.19	3.43	1.60	3.88	3.70	
Lincoln, Ohio.....	456	179,473	364	212,367	466	194,508	427	3.15	3.65	3.11	3.25	1.60	4.06	3.75	
Mackinaw City, Mich.....	456	346,738	500	352,126	578	305,299	901	2.60	3.43	3.10	3.28	2.75	3.63	3.96	
Marion, Ind.....	750	396,434	435	367,547	730	349,070	452	1.70	3.91	3.57	3.78	1.80	4.14	3.78	
Muskegon, Mich.....	456	290,273	488	328,112	790	306,738	673	2.10	3.30	2.92	3.12	2.25	3.96	3.54	
South Bend, Ind.....	750	396,325	515	468,197	621	434,640	579	1.95	3.79	2.97	3.37	2.05	3.94	3.73	
Toledo, Ohio.....	456	182,503	402	214,307	470	195,754	439	1.45	3.61	3.09	3.38	1.60	3.98	3.40	
Totals and averages.....															
6,810 3,504,324 515 4,197,675 515 3,900,144 553 813 1.89 3.67 3.07 3.39 2.03 3.94 3.30 3.64															
Nonaffected territory:															
Champaign, Ill.....	750	480,533	574	468,964	645	453,527	611	2.25	3.92	3.49	3.68				
Chicago, Ill.....	750	431,496	575	438,165	644	432,197	603	2.05	3.57	3.15	3.40				
Dayton, Ohio.....	345	122,660	336	130,149	377	125,255	363	1.65	3.79	3.23	3.58				
Indianapolis, Ind.....	345	151,301	439	177,514	514	160,457	465	1.85	3.76	3.21	3.55				
Peoria, Ill.....	750	450,939	603	536,046	744	520,650	664	2.25	3.45	3.02	3.24				
St. Louis, Mo.....	750	513,002	685	605,154	807	557,571	743	2.60	3.65	3.10	3.36				
Terre Haute, Ind.....	750	392,510	523	441,293	588	413,003	551	2.05	3.92	3.49	3.72				
Vincennes, Ind.....	750	416,355	555	476,524	636	446,356	595	2.05	3.60	3.22	3.45				
Totals and averages.....															
5,190 2,948,476 568 3,356,009 647 3,124,026 604 284 2.02 3.56 3.13 3.34															

APRIL, 1916.

APPENDIX F.

(Griggs Exhibit No. 13—corrected.)

Composite statement, showing average distances and P. T. M. earnings on bituminous coal, from all mines in Ohio districts taking the same rate to Toledo, Ohio.

District.	Originating road.	Number of shipping points.	Average distances.				Average all routes.		Number of routes.	Present rate.	Revenue per ton per mile.		
			Via short routes.		Via long routes.		Total miles.	Average.			Short routes.	Long routes.	Average all routes.
			Total miles.	Average.	Total miles.	Average.							
No. 8, Cambridge, Shawnee.	B. & O. R. R.	54	12,096	224	13,878	257	12,798	237	7	\$1.00	Mile. 4.46	Mile. 3.39	Mile. 4.22
No. 8, Cambridge.	P. Co.	16	3,602	226	3,602	225	3,602	225	1	1.00	4.44	4.44	4.44
No. 8.	N. Y. C. R. R.	4	864	216	868	217	868	217	2	1.00	4.63	4.61	4.61
Pomerooy.	K. & M. Ry.	9	2,106	234	2,167	241	2,133	237	2	1.00	4.27	4.14	4.21
No. 8.	W. P. T. Ry.	4	736	184	764	191	748	187	2	1.00	5.43	5.23	5.33
Hooking.	H. V. Ry.	13	3,474	193	3,492	194	3,492	194	2	1.00	5.18	5.15	5.15
Pomerooy.	H. V. Ry.	4	1,000	250	1,004	251	1,004	251	2	1.00	4.00	3.98	3.98
Jackson.	H. V. Ry.	13	2,756	212	2,760	213	2,760	213	2	1.00	4.71	4.69	4.69
No. 8.	W. & L. E. R. R.	16	3,104	194	3,344	209	3,216	201	3	1.00	5.15	4.78	4.98
Hooking.	T. & O. C. Ry.	13	3,523	196	3,978	221	3,690	205	5	1.00	5.10	4.83	4.88
Totals and averages.		156	33,266	213	35,866	230	34,320	220	28	1.00	4.69	4.35	4.55

¹ NOTE.—The normal rate of \$1 used for comparison. A rate of 85 cents net ton prescribed by the P. U. C. of Ohio is in effect.

APRIL, 1916.

APPENDIX G.

Production of bituminous coal in short tons, by years, from 1900 to 1916, inclusive, of the states involved in this proceeding.

Year.	Michigan.	Illinois.	Indiana.	Ohio.	Pennsyl- vania.	Maryland.	West Virginia.	Virginia.	Tennessee.	Kentucky.
1900.....	849,475	25,767,961	6,484,066	13,968,150	79,842,326	4,094,688	23,647,207	2,393,754	3,599,592	5,328,964
1901.....	1,241,241	27,331,552	6,913,225	20,943,807	82,305,946	5,113,127	24,063,402	2,725,873	3,833,200	5,490,968
1902.....	1,094,715	32,039,373	9,446,424	23,519,894	98,574,946	5,271,619	24,570,826	3,182,933	4,832,963	6,795,964
1903.....	1,367,619	36,967,104	10,794,662	24,838,103	108,117,178	4,840,166	29,337,241	3,451,307	4,798,004	7,538,082
1904.....	1,242,840	36,475,080	10,842,189	24,400,230	97,938,267	4,813,622	23,408,723	3,410,914	4,795,211	7,576,482
1905.....	1,473,211	38,434,363	11,895,252	25,552,950	118,413,537	5,108,539	37,791,590	4,775,271	5,795,960	8,432,623
1906.....	1,846,338	41,480,104	12,082,660	27,731,640	129,263,208	5,435,413	43,290,350	4,254,879	6,235,715	9,653,647
1907.....	2,036,858	51,317,146	12,314,980	32,142,419	150,143,177	5,532,628	48,091,533	4,710,806	6,810,243	10,733,124
1908.....	1,835,019	47,659,600	15,399,815	26,270,639	117,179,527	4,377,033	41,897,843	4,293,942	6,199,171	10,246,354
1909.....	1,794,622	50,900,246	14,894,259	27,689,641	137,966,791	4,023,241	51,849,220	4,762,217	6,356,645	10,667,394
1910.....	1,834,967	45,900,246	14,201,355	34,209,665	140,521,528	5,217,125	61,671,019	6,307,997	7,121,390	14,623,319
1911.....	1,476,074	53,679,113	15,295,713	34,528,727	144,561,257	4,685,795	59,831,590	6,864,667	6,453,159	14,049,708
1912.....	1,206,230	59,885,226	17,165,671	36,200,527	161,865,488	4,964,786	66,786,687	7,846,636	6,475,228	16,491,521
1913.....	1,281,786	61,618,744	16,641,132	35,843,115	173,781,217	4,779,839	71,264,136	8,828,068	6,990,184	19,616,000
1914.....	1,283,030	57,659,197	16,641,132	35,843,115	147,983,294	4,133,547	71,707,629	7,809,526	5,943,258	20,352,753
1915.....	1,156,138	58,829,676	17,006,132	32,484,691	167,955,137	4,180,477	77,184,069	8,123,506	5,790,361	21,361,674
1916 ¹	1,230,020	64,500,000	19,000,000	37,000,000	175,000,000	3,700,000	91,000,000	9,550,000	6,960,000	25,330,000

¹ The figures for 1915 and 1916 are not part of the record, being unavailable at the time the last hearing was held, and are inserted in order to make this table complete. These figures as well as those for the preceding years are taken from the reports of the U. S. Geological Survey, those for 1915 being the final figures for that year and those for 1916 being the official estimates.

APPENDIX G.

Production of bituminous coal in short tons, by years, from 1900 to 1916, inclusive, of the states involved in this proceeding.

Year.	Michigan.	Illinois.	Indiana.	Ohio.	Pennsyl- vania.	Maryland.	West Virginia.	Virginia.	Tennessee.	Kentucky.
1900.....	849,475	26,757,961	6,484,086	18,988,150	79,842,320	4,024,688	22,647,207	2,363,754	3,509,552	5,328,964
1901.....	1,241,241	27,331,552	6,918,225	20,943,807	82,305,946	5,113,127	24,068,402	2,725,573	3,633,290	5,490,966
1902.....	964,718	32,589,373	9,446,424	23,519,894	86,574,867	5,271,609	24,170,526	3,182,968	4,832,968	6,766,964
1903.....	1,367,619	30,987,104	10,794,692	24,898,108	108,117,178	4,846,165	29,387,241	3,451,807	4,798,004	7,588,082
1904.....	1,842,840	30,475,060	10,842,186	24,400,220	97,938,287	4,813,622	32,406,732	3,410,914	4,782,211	7,576,483
1905.....	1,473,211	38,434,363	11,896,252	25,532,950	118,413,637	5,108,539	37,791,980	4,275,271	5,765,660	8,432,523
1906.....	1,846,388	41,480,104	12,092,560	27,731,640	129,293,206	5,435,458	48,280,350	4,254,579	6,256,275	9,633,647
1907.....	2,036,868	51,317,146	13,985,713	32,142,419	160,148,177	5,832,628	48,091,838	4,710,965	6,810,243	10,703,124
1908.....	1,835,019	47,650,660	12,314,860	26,270,639	117,176,527	4,377,093	51,846,220	4,286,042	6,199,171	10,246,533
1909.....	1,784,682	50,904,960	14,884,259	27,989,641	137,965,791	4,028,241	51,946,220	4,752,217	6,359,645	10,697,384
1910.....	1,684,947	45,900,246	18,289,815	34,209,668	140,521,598	5,217,125	61,671,019	6,507,997	7,121,390	14,623,319
1911.....	1,476,074	53,679,118	14,201,355	30,739,986	144,561,257	4,665,795	59,831,690	6,864,667	6,433,155	14,049,708
1912.....	1,206,280	59,886,226	15,285,718	34,628,727	161,865,498	4,964,088	66,789,687	7,846,688	6,473,228	16,490,521
1913.....	1,281,786	61,618,744	17,105,671	36,200,527	173,781,217	4,779,899	71,254,136	8,528,068	6,860,184	19,616,600
1914.....	1,283,080	67,689,197	16,641,182	18,843,115	147,983,294	4,138,547	71,707,626	7,869,635	5,943,288	20,382,763
1915.....	1,156,138	85,826,576	17,006,163	23,484,691	157,955,137	4,180,477	77,184,099	8,122,566	5,720,361	21,361,674
1916 ¹	1,280,000	84,500,000	19,000,000	37,000,000	175,000,000	3,700,000	91,000,000	9,850,000	6,660,000	26,380,000

¹ The figures for 1915 and 1916 are not part of the record, being unavailable at the time the last hearing was held, and are inserted in order to make this table complete. These figures as well as those for the preceding years are taken from the reports of the U. S. Geological Survey, those for 1915 being the final figures for that year and those for 1916 being the official estimates.

No. 8725.¹
LAKE CARGO COAL RATES.

Submitted June 15, 1917. Decided July 13, 1917.

This proceeding involves the reasonableness and propriety of the rates, rules, regulations, and practices applicable to shipments of bituminous coal in carloads from mines in Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Ohio, to Lake Erie ports for transshipment by vessel. Upon the record,
Held:

1. The reasonableness *per se* of the rates can not now be determined because of the abnormal conditions prevailing.
2. The rate adjustment found to be unduly preferential and prejudicial; specific relationships in the rates as between the several originating districts ordered established and maintained for the future.
3. The respondents required to state separately in their tariffs the charges for the line haul and the dock services, respectively.

Chas. M. Johnston and Frank Lyon for Pittsburgh Coal Operators' Association.

W. S. Bronson for Chesapeake & Ohio Railway Company and as chairman of the respondents' committee of counsel.

W. N. King and Leroy Allebach for Kanawha & Michigan Railway Company.

Clyde Brown, for New York Central lines.

A. P. Burgwin, Geo. B. Gordon, Karl E. Burr, and W. W. Collin, jr., for Pennsylvania lines.

R. Walton Moore, Lucien H. Cocke, and Chas. D. Drayton for Norfolk & Western Railway Company.

Robt. F. Denison and A. P. Martin for Wheeling & Lake Erie Railway Company.

William Ainsworth Parker and Francis R. Cross for Baltimore & Ohio Railroad Company.

J. S. Patterson for Chesapeake & Ohio Railway Company.

S. P. Woodside for Wabash Pittsburgh Terminal Railway and West Side Belt Railroad.

John F. Wilson and Fred C. Rector for Hocking Valley Railway Company.

Geo. Patterson Boyle and H. B. Arnold for Sunday Creek Coal Company and the Continental Coal Company of Ohio.

O. E. Harrison for southern Ohio coal operators.

¹ This report also embraces No. 8598, Pittsburgh Coal Operators' Association v. Pennsylvania Company et al.

Chas. F. Chapman, of *Tracy, Chapman & Welles*, and *T. H. Hogsett*, of *Tolles, Hogsett, Ginn & Morley*, for Continental Mining Company.

C. Andrade, jr., for Connellsville Coal Tariff Association.

S. B. Avis for Public Service Commission of West Virginia.

James D. Francis for committee representing coal operators in West Virginia on the Chesapeake & Ohio Railway.

Wm. A. Glasgow, jr., and *J. Walter Lord* for Central West Virginia Coal Operators' Association.

E. J. McVann and *E. L. Greever* for the Coal Operators' Association on the Norfolk & Western Railway.

Francis B. James for West Virginia Coal Association, Public Service Commission of West Virginia, Kanawha Coal Operators' Association, and others.

A. A. Lilly, attorney general of West Virginia, for West Virginia Coal Association.

John Marshall and *Z. T. Vinson* for West Virginia State Board of Trade.

Z. T. Vinson for West Virginia Coal Association.

W. G. Dearing for Consolidation Coal Company, Kentucky division.

Arthur M. Scully for receivers of Merchants Coal Company et al.

REPORT OF THE COMMISSION.

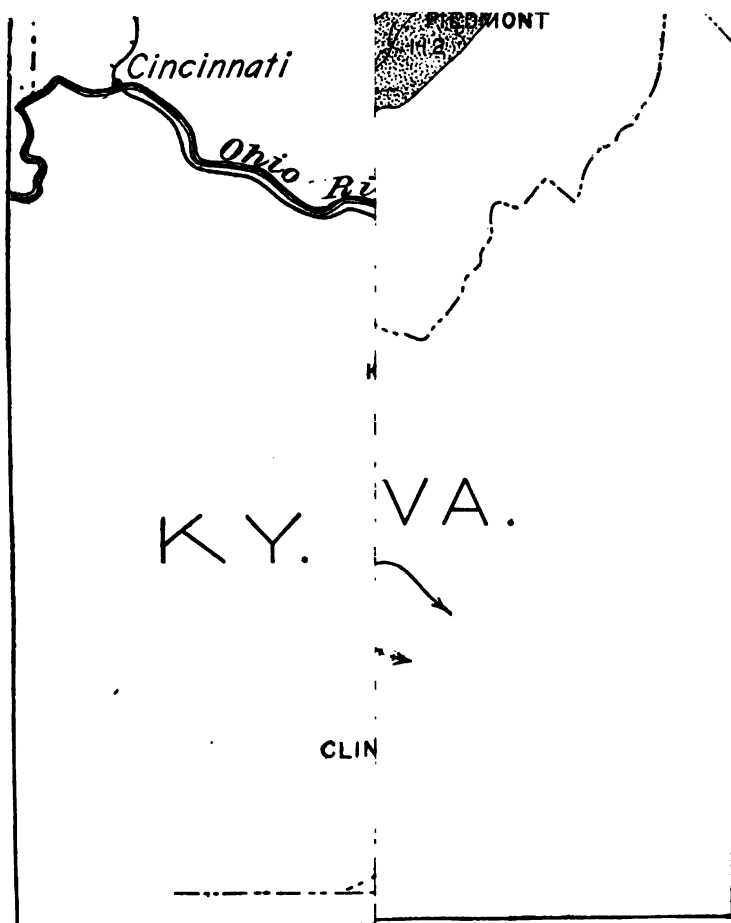
BY THE COMMISSION:

This proceeding involves the rates on bituminous coal in carloads from mines in Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Ohio to the lower Lake Erie ports, Erie, Pa., on the east to Toledo, Ohio, on the west, inclusive.¹ The traffic involved is designated as "lake cargo coal" as distinguished from shipments of so-called "commercial" coal having final destination at the lake ports proper or at other points and not transshipped over the lakes. The haul to the lake ports on lake cargo coal is regarded by the respondent carriers as being a part of a through movement and the rates on this traffic are lower than the rates on commercial coal.

The rates on lake cargo coal apply from groups of mines usually referred to as "districts." The accompanying map shows the relative location of the principal districts, the rates applicable therefrom during the period of the investigation, and the more important routes over which the traffic is handled. Since the last hearing was had in these cases practically all of the rates have been increased by 15 cents per ton. Table A at page 195 of the appendix hereto² shows the rates investigated and the distances from the principal

¹ The names of the lake ports are: Toledo, Sandusky, Huron, Lorain, Cleveland, Fairport Harbor, Ashtabula Harbor, Conneaut Harbor, and Erie. For brevity Fairport Harbor, Ashtabula Harbor, and Conneaut Harbor are hereinafter referred to as Fairport, Ashtabula, and Conneaut, respectively.

² The tables in the appendix are lettered A to K inclusive. Hereinafter reference will be made to such tables by letter only without mention being made of the appendix.



producing districts to the lake ports. In most cases the rates are published f. o. b. cars on the docks at the lake ports and a separate charge of 5 cents per ton is provided for transferring the coal from the car to the vessel. In some cases, however, a flat rate is published from the mines to the hold of the vessel. The respondents state that such rates include a charge of 5 cents per ton for the transfer service. Unless otherwise specified, therefore, all rates on lake cargo coal stated herein are in cents per short ton and apply f. o. b. cars on the docks at lake ports.

In former proceedings we have investigated and passed upon the rates from certain of the districts here involved. In *Boileau v. P. & L. E. R. R. Co.*, 22 I. C. C., 640 (Mar. 11, 1912), hereinafter referred to as the *Boileau Case*, we found the rate of 88 cents from the Pittsburgh district to Ashtabula there complained of to be unjust and unreasonable to the extent that it exceeded 78 cents. This finding was confirmed on June 4, 1912, in a supplemental report in the same proceeding on application for modification of order (24 I. C. C., 129).

In *Pittsburgh Vein Operators of Ohio v. Penna. Co.*, 24 I. C. C., 280 (June 6, 1912), we found the rate of 85 cents complained of, applicable from the Ohio No. 8 district to the ports of Cleveland and Huron, to be unjust and unreasonable and ordered the defendant carriers to establish a rate not to exceed 75 cents.

In *New Pittsburgh Coal Co. v. H. V. Ry. Co.*, 24 I. C. C., 244 (June 6, 1912), decided concurrently with the case last cited, we concluded upon the record there submitted and the conditions prevailing at the time that a rate of 75 cents from the Hocking district to Toledo via the Hocking Valley Railway was not unreasonable.

In *San Toy Coal Co. v. A., C. & Y. Ry. Co.*, 34 I. C. C., 93 (Mar. 30, 1915), involving rates from San Toy and two other near-by points in the Crooksville (or Hocking) district to Cleveland, Sandusky, and Toledo, we found that the 75-cent rate complained of was not shown to be unreasonable or discriminatory as compared with the rates from the Middle district and the Ohio No. 8 district to the lake ports.

In *Clyde Coal Co. v. P. R. R. Co.*, 23 I. C. C., 135 (Apr. 1, 1912), we ordered that the rate of 78 cents from the Pittsburgh district to Ashtabula be accorded to the mines of the complainant, located at Clyde, Pa., 188.8 miles from Ashtabula. At the time of filing the complaint in that case (April 6, 1911), the Fairmont district rate of 96½ cents was applied from Clyde.

In *Pitt Gas Coal Co. v. P. R. R. Co.*, 37 I. C. C., 240 (Dec. 22, 1915), we expressed the opinion that Ten Mile Creek should be fixed as the boundary line of the Pittsburgh district on the south

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and ordered the defendant carriers to establish from Besco, Pa., to Ashtabula Harbor a rate not to exceed 78 cents. Besco is 191.2 miles from Ashtabula Harbor. The Fairmont district rate of 90 cents formerly applied from this point.

In *Investigation and Suspension Docket 26 to 26 C*, 22 I. C. C., 604 (Mar. 11, 1912), decided concurrently with the *Boileau Case*, *supra*, the rates on lake cargo coal from the Fairmont, Kanawha, Thacker, New River, and Pocahontas districts in West Virginia were involved. The carriers serving the districts named proposed, by tariffs duly filed, to increase their rates $3\frac{1}{2}$ cents from the Fairmont district and $9\frac{1}{4}$ cents from each of the other districts. In that case we found that the increased rates from the Pocahontas and Thacker fields proposed by the Norfolk & Western Railway were justified, but that as to the Chesapeake & Ohio, the Kanawha & Michigan, and the Baltimore & Ohio railways no showing was made which would justify us in holding that the proposed increased rates from the Fairmont, Kanawha, and New River fields were just and reasonable. While the increased rates proposed by the Norfolk & Western were approved, the tariffs carrying such increases were withdrawn and the rates in effect prior to the proposed increase were reestablished.

At or about the time the reduced rate of 78 cents prescribed from the Pittsburgh district was put into effect the Baltimore & Ohio reduced its rate of $96\frac{1}{2}$ cents from the Fairmont district to 90 cents. About the same time rates from the principal districts in Ohio, which for a number of years had borne a fixed relation to the rates from the Pittsburgh district, were also reduced by the carriers serving those districts from 85 to 75 cents.

On January 17, 1916, the Pittsburgh Coal Operators' Association, a voluntary association, composed of individuals, firms, and corporations engaged in the mining, buying, and selling of coal in the Pittsburgh district, filed a complaint against the Pennsylvania Company, the Pennsylvania Railroad Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, the Pittsburgh & Lake Erie Railroad Company, and the New York Central Railroad Company, the lines of which carriers form two through routes from the Pittsburgh district to the port of Ashtabula, in which it was alleged that the 78-cent rate then in effect from the Pittsburgh district to Ashtabula, Ohio, was unjust, unreasonable, and unjustly discriminatory. It was stated that the complaint as filed "is in effect a prayer for a reopening or rehearing of the *Boileau Case*." The chief reasons assigned for a further or reinvestigation of the Pittsburgh district 78-cent rate are: (a) That the decision in the *Boileau Case* failed of its purpose which, it is alleged, was to remove certain disadvantages to the Pittsburgh district in the way of freight rates, costs of mining

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coal, etc., and to better its position in the market to the extent of 10 cents per ton; and (b) that since the investigation in the *Boileau Case* was made, changes have occurred in connection with the transportation of lake cargo coal that have resulted in lower costs to the carriers for handling that traffic.

On March 18, 1916, and after several of the carriers serving the Pittsburgh district but not parties defendant in the original complaint had filed petitions for intervention, the Commission instituted a general investigation into the reasonableness and propriety of the rates, rules, regulations, and practices applicable to shipments of lake cargo coal from the entire territory in which such coal originates and in this general proceeding practically all of the carriers participating in the transportation of this traffic were made parties respondent.

Various companies, committees, and trade associations, including the Public Service Commission of the state of West Virginia and the West Virginia Board of Trade, intervened in behalf of the coal operators in the originating territory. The most of these interveners opposed a reduction of the Pittsburgh district rate and advocated the maintenance of the present differentials in rates as between the several districts. The special contentions of certain of the interveners will be referred to later herein.

In *Bituminous Coal to Central Freight Association Territory*, page 66, *ante*, decided concurrently herewith, the long standing controversy among the coal operators and the carriers with respect to the rates on coal from the territory here involved, their failure and apparent inability to agree upon a rate adjustment, and other contributory causes which led up to the investigation in that case as well as in this proceeding, are dealt with at some length. The two cases involve practically the same origin territory, the same carriers, and the same shippers. They are so closely related that by stipulation the record in each case was made available for use in the other. Reference is therefore made to the report in the case last cited for further information of a general nature bearing upon the issues here involved.

THE FORMAL COMPLAINT.

While the original complaint of the Pittsburgh Coal Operators' Association alleges both unreasonableness and discrimination in the rate from the Pittsburgh district to Ashtabula, the allegation with respect to discrimination was abandoned during the course of the proceeding, and in the brief it is stated that—

The only question raised in this complaint is the reasonableness of the 73-cent rate applied on lake cargo coal from the Pittsburgh district to Ashtabula via the Pennsylvania and the New York Central routes.

In the present proceeding no attempt was made by any of the parties in interest to show the cost per ton of transporting coal from the Pittsburgh district to Ashtabula, but the complainant accepted our findings in the *Boileau Case* on this point. In that case we said, at page 655:

From the point of view of the specific cost of doing this particular business this rate [78 cents] is still too high; but, as we have said before, cost is only one of the elements entering into a rate. When we consider the coal rates from all the fields which will be affected by this change in the Pittsburgh rate [reduction of 10 cents], the disturbance in established differentials, the possible deflection of the currents of coal trade and its effect upon operators elsewhere, the effect upon the carriers directly involved and the indirect effect upon other carriers, and all of the other valid considerations, we are forced to the conclusion that a rate lower than this would not be just and reasonable under the conditions disclosed by this record.

With respect to the passage just quoted, the complainant states in its brief that it "has filed this proceeding for the purpose of bringing to the attention of the Commission the fact that there has been no disturbance in the currents of coal trade nor in the rates resulting from the reduction of the lake cargo rate of [to] 78 cents. In fact, instead of this reduction having that effect, the lake cargo coal has continued to move in ever greater and increasing volume from the West Virginia fields with a corresponding decrease from the Pittsburgh district, and rates have not been disturbed except as noted hereafter." The disturbance in rates to which complainant refers was the reductions from the Fairmont district and from the Ohio fields to which reference has already been made herein. It is pointed out by the complainant that "the lake cargo rates from the lower West Virginia fields, the principal competitors of Pittsburgh, were not disturbed."

The theory of complainant's case, as stated upon brief is that—

* * * since the Commission in the *Boileau Case* had found the lake cargo rate from Pittsburgh extremely high, based upon cost, and refused to base the new rate upon the cost, all that is incumbent upon complainant in the present proceeding is to show that the tendency in the cost of the transportation of lake cargo coal has been downward rather than upward, while the tendency of the shipments of lake cargo coal from the Pittsburgh district has likewise been downward instead of upward.

With respect to the shipments of lake cargo coal, exhibits were filed which show the annual tonnage since 1896 from all the districts and from these exhibits Table B has been compiled showing the shipments for each of the years 1911 to 1916, inclusive. The reduced rate from the Pittsburgh district took effect in the early part of 1912.

The exhibits show a marked decrease in the relative tonnage of lake cargo coal shipped from the Pittsburgh district since 1896, during which year 2,668,338 tons, or 65.54 per cent of the total tonnage, moved from this district, but it would be difficult to say what the tendency has been since 1911. In 1912 there was a decrease in both

the tons and the percentage, in 1913 an increase in the tons and a decrease in the percentage, in 1914 an increase in both the tons and the percentage, and in 1915 and 1916 a decrease in both the tons and the percentage. Similar fluctuations have occurred, however, in the shipments from the Fairmont, Hocking, and other districts. Shipments from certain of the southern West Virginia fields show an increasing tendency, but the most marked relative increase shown is from the Kentucky district which in 1911 shipped only 0.05 per cent of the total, while in 1914 it shipped 4.01 per cent, and in 1916, 3.73 per cent. It appears that no shipments of lake cargo coal moved from the Kentucky district prior to 1909 and that this district has been largely developed since that time. The southern West Virginia fields did not begin shipping lake cargo coal in any volume until about 1903, and it is stated that the competition of these fields was not felt by the Pittsburgh district until about 1905. Since 1900 the development of mines and the construction of additional railway mileage and facilities have been greater relatively in southern West Virginia and eastern Kentucky than in the Pittsburgh and certain other districts that have been established and actively in operation for many years. It is therefore but natural that the shipments from these newer fields should increase at a much more rapid rate relatively. It appears also that certain of the districts, particularly Pocahontas and New River, produce a very superior quality of semibituminous smokeless coal which has its own peculiar market, and which competes only indirectly with the Pittsburgh district coals. It is said that strikes and labor troubles in the Ohio mining regions in 1914 and 1915 account in a large measure for the decrease in shipments from the Ohio fields during those years, and that during that period those accustomed to use the Ohio coals were obliged to seek other sources of supply for a large part of their requirements. The conditions cited and many others no doubt affect from year to year both the actual and the relative quantity of coal produced in and shipped from the several districts, and while the rate adjustment may and no doubt does have its effect, there is nothing of record to justify the conclusion that it has been the only or even the principal cause of the alleged relative decrease in tonnage of lake cargo coal shipped from the Pittsburgh district since 1911. But, assuming that the contentions of the complainant were established, it is not the duty of a carrier to place all of its shippers in a position to meet the markets which they may desire to supply, *Investigation and Suspension Docket 26 to 26 C*, 22 I. C. C., 604, 625, nor have we the power to require the railroads, in the face of varying trade conditions, to adjust their rate schedules in such manner as to insure to a market the continuance of a trade it has once enjoyed. *Baltimore Chamber of Commerce v. B. & O. R. R. Co.*, 22 I. C. C., 596, 603. In connection with

the complainant's contention, it should be observed that the shipments from the Pittsburgh district have greatly increased in volume since 1896 and this increase has also continued since 1905. The decrease has been only in the relative volume of shipments and it is clearly not within the power of this Commission, nor is it the duty of the carriers, so to adjust freight rates as to maintain a fixed relation of tonnage as between given points or districts of origin.

The complainant asserts that the tendency of the cost of transporting lake cargo coal to Ashtabula has been downward since 1911 for the following principal reasons:

- (a) The load per car has increased;
- (b) The number of cars per train and the tons per train have increased;
- (c) The detention of cars at the lake ports is less because of change in the demurrage rules, the result being greater car efficiency.

With respect to the car loading, exhibits were filed showing that the average loading of coal per car by the Pittsburgh Coal Company, a member of the complaining association, was 42.95 tons in 1911 and 47.71 tons in 1916, an increase of 4.76 tons, or 11 per cent. These figures, however, appear to include commercial coal as well as lake cargo coal. Testimony was offered by the defendants to show that during the period in question there has been no increase in the average load of lake cargo coal on the Pittsburgh & Lake Erie Railroad, the originating carrier for the New York Central route. No similar information was submitted with respect to the Pennsylvania lines.

The following table shows the percentage of increase or decrease in train and car loading of all freight in 1916 compared with 1911 for the five roads defendant in the formal complaint:

Carrier.	Average number of freight cars per train-mile.	Average number of tons of freight per train-mile.	Average pounds of freight in loaded car.
N. Y. C.....	27 per cent increase....	50 per cent increase....	12 per cent increase.
P. & L. E.....	8 per cent decrease....	15 per cent increase....	8 per cent increase.
Pa. Co.....	12.9 per cent increase....	40 per cent increase....	12 per cent increase.
P. R. R.....	14 per cent increase....	21 per cent increase....	6 per cent increase.
P., C. & St. L.....	25 per cent increase....	52 per cent increase....	11 per cent increase.

The increase in train loading appears to be accounted for largely by the introduction and use of heavier and more powerful locomotives, and an exhibit filed by the defendants shows that on the Pittsburgh & Lake Erie the maximum gross tonnage of lake cargo coal trains increased from 4,000 tons in 1912 to 5,000 tons in 1916, or 25 per cent. A similar showing was not made for the remaining carriers serving the Pittsburgh district, but from other exhibits of record it appears that the train loading of lake cargo coal in 1916 was greater on the Pittsburgh & Lake Erie-New York Central route than on any other of the routes handling this class of traffic.

Regarding the effect the change in the demurrage rules has had upon car efficiency, the following table was submitted showing the number of tons of lake cargo coal handled per car per year in 1906, when no demurrage was charged against lake cargo coal, and the number of tons per car per year handled each year since 1906. Demurrage has been assessed since about 1907. The figures are from the records of the Pittsburgh Coal Company and include shipments by that company only.

Years.	Cars.	Tons.	Tons per car per year.	Years.	Cars.	Tons.	Tons per car per year.
1906.....	18,000	3,783,261	473	1912.....	2,565	4,704,132	1,834
1907.....	3,603	4,207,026	1,168	1913.....	2,386	5,329,314	2,224
1908.....	3,201	3,658,318	1,143	1914.....	2,563	4,035,985	1,575
1909.....	2,931	3,241,750	1,106	1915.....	2,191	3,752,016	1,712
1910.....	2,727	4,165,788	1,528	1916 [*]	1,966	3,448,898	1,754
1911.....	2,872	4,126,037	1,437				

¹ Estimated.

^{*} Pittsburgh Coal Co. records subsequent to hearing.

The respondents were requested by the Commission to submit in the form of testimony such information as they were able to obtain relative to changes in their operating methods or conditions since June 30, 1911, that would materially increase or decrease the cost of transporting lake cargo coal, together with information as to their expenditures for additional equipment or facilities for use exclusively or to an appreciable extent in the transportation of that traffic. A number of representative carriers made an attempt to furnish the information requested, among them being the Pittsburgh & Lake Erie, the New York Central, the Pennsylvania Company, the Norfolk & Western, the Chesapeake & Ohio, and the Hocking Valley.

So far as the changes in operating methods or conditions are concerned, the testimony related only to train statistics and certain items of so-called train expenses, namely, enginemen's wages, trainmen's wages, fuel for locomotives, water, lubricants, and other supplies for locomotives, repairs to locomotives and freight cars, train supplies and expenses, and roundhouse expenses. Exhibits filed purporting to show the train-mile cost of the above items of expense indicated an increase in such cost for the year ended June 30, 1916, over the cost for the year ended June 30, 1912, but the detail accompanying the exhibits showed that there had been a substantial increase in the number of cars and number of tons per train. The exhibits also showed an appreciable increase in the investment accounts for locomotives and cars and for additional tracks, sidings, etc., used in connection with the transportation of lake cargo coal. It appears, however, that only a small proportion of the total additional investment was for facilities used exclusively in the transportation of that traffic.

The increased investment was apportioned to lake cargo coal generally on the basis which the tons or ton-miles of such traffic bore to the total freight traffic, and when consideration is given to the return upon the additional investment so assigned it appears there has been little change in the train-mile cost during the two periods compared. During the period there was a more or less general increase in the wages of enginemen, trainmen, yardmen, and certain other classes of employees. Some increases in cost were also claimed by reason of the increase in price of fuel coal and other materials and supplies, and of the employment on certain trains of an additional brakeman in compliance with the so-called full-crew law of Pennsylvania. No showing was made by the respondents as to the relative costs for the two years of assembling the coal or of the yard and terminal expenses or any other items of expenses except those indicated. While the showing as a whole was somewhat indefinite and inconclusive, there was nothing to indicate any appreciable change in the cost per ton or per ton-mile of transporting lake cargo coal for the year ended June 30, 1916, compared with the year ended June 30, 1912. Certain economies have been effected through the introduction of larger locomotives and cars, heavier car and train loading, and in other ways, but such saving was offset partially, if not wholly, by the increases in expenses heretofore referred to and the increased investments in equipment and additional facilities.

Testimony was presented by certain of the interveners in an attempt to show that because of additional and improved facilities and greater efficiency in operation, the tendency of the Norfolk & Western was toward lower costs per unit of traffic handled; but most of the comparisons were made between the year ended June 30, 1916, and prior years. It was pointed out by the carriers that 1916 was an abnormal year, that the traffic handled and the revenue received therefrom was much greater than in any prior year, and that the operating results for that year could not properly be taken as representative. It was also shown that beginning in the fall of 1916 there was a large increase to the respondents in the prices of equipment, coal, and other materials and supplies used by them, which increases were not reflected in the cost figures presented by the interveners. The matter of increased prices to the carriers will be referred to later herein.

Considering the increased investment, the increase in wages, and all the other factors affecting the cost of transportation, the conclusion seems to be justified that up to June 30, 1916, there had been but little change since 1911 in the cost per unit of transporting lake cargo coal from the Pittsburgh district or the other districts, but assuming that the cost has been reduced we would not regard it as just and proper to take from the carriers all of the benefits resulting from their

increased investments and the introduction of improved methods. *Investigation and Suspension Docket 26 to 26 C, 22 I. C. C., 604, 625.* Were we therefore to decide the issue presented on the basis of the theory advanced by the complainants and consider only the relative movement of tonnage from the several districts and the changes or tendency in costs of transporting lake cargo coal we would be disposed to dismiss the complaint; but much other evidence was introduced in connection with the general investigation, as well as by the complainant, bearing particularly upon the relationship of the rates from the several districts, and it is upon the record as a whole that our findings must be based.

THE ISSUES RAISED UNDER THE GENERAL INVESTIGATION.

The formal complaint of the Pittsburgh Coal Operators' Association attacked the rate of 78 cents from the Pittsburgh district to the port of Ashtabula only over certain specific routes, but in the general investigation the reasonableness and propriety of the rates from all the originating districts were investigated, and as to the Pittsburgh district this included several lake ports other than Ashtabula and several carriers whose lines do not reach Ashtabula, but which do serve other lake ports. The following statement shows the principal originating districts, the rates investigated, and those now in effect. In Table A certain other districts and the principal routes over which the traffic moves and also the distances are shown. Since the evidence related to the rates in effect before they were increased by the carriers, we will in this report consider only the rates that were investigated.

Originating districts.	Rates investigated.	Rates now in effect.
Ohio No. 8, Hooking, Cambridge.....	75	90
Pittsburgh.....	78	98
Fairmont, Connellsville.....	90	105
Kanawha, Thacker, Kenova, Kentucky ¹	97	112
New River, Pocahontas, Cumberland-Piedmont, Meyersdale.....	112	137

¹ The preceding map shows the Kentucky district and the Elkhorn district in eastern Kentucky. These two districts are throughout this report referred to as the Kentucky district.

As hereinbefore stated, the principal interest of the interveners is in the rate relationship existing as between the several originating districts. Thus, the West Virginia and Kentucky interveners object to any widening of the differential over the rates from the Pittsburgh and the Ohio districts; the Connellsville interveners ask that the Connellsville district be accorded the same rate as the Pittsburgh district; and the Meyersdale district interveners object to being grouped with the New River and Pocahontas districts in southern West Virginia and ask to be grouped instead with the Fairmont and Connells-
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ville districts. The Meyersdale interveners also claim discrimination in their rates as compared with the rates from Fairmont and Connellsville. We have, therefore, for consideration not only the question of the reasonableness *per se* of the rates from the several districts, but the propriety of the relationship existing between them; whether or not unlawful discrimination existed under the rates formerly in effect, and also the question of the grouping of several districts under one rate.

In the cases heretofore cited information is given concerning the history of the rates, the tonnage of lake cargo coal from the several districts, distances to the lake ports, etc., much of which it will be unnecessary to repeat here. It is observed that some of the distances from certain of the groups as shown in our former reports do not agree with the distances shown by the record now before us, but generally speaking such differences appear to be unimportant, and for the purpose of this report we will use the distances shown of record in this proceeding.

THE CONNELLSVILLE INTERVENTION.

The Connellsville Coal Tariff Association, representing a number of coal and coke producers having mines in the Connellsville and Klondike regions of Pennsylvania, hereinafter referred to as the Connellsville district, intervened for the purpose of having the Pittsburgh district and the Connellsville district consolidated into one district taking the same rate on lake cargo coal. The differential in the rate from Connellsville is 12 cents over Pittsburgh, and it is claimed that this differential against Connellsville and in favor of Pittsburgh is unjust and unreasonable. The interveners favor rates which will properly reimburse the carriers, but express no views on the subject of the absolute level of the rates *per se*. As stated upon brief, their entire case is a matter of differentials.

The Connellsville district joins the Pittsburgh district on the southeast. For a short distance the Monongahela River forms the dividing line, but for the most part there is no natural boundary between the districts and in some cases the mines in one district are only a short distance from those in the other. In some instances also the distances overlap, that is to say, some of the mines in the Connellsville district are nearer to the lake ports than certain mines in the Pittsburgh district. What is known as the Pittsburgh vein of coal underlies both the districts, but the structure and chemical content of the coal in the two districts taken as a whole are somewhat different. The coal produced in the Pittsburgh district is used principally for producing steam and gas, and for domestic purposes, while that in the Connellsville district is especially adapted for the

production of coke. Heretofore, and even up to the present time, practically all of the coal mined in the Connellsville district has been manufactured into coke, in beehive ovens located at or near the coal mines, and the interveners state that because they have in the past been primarily producers and shippers of coke, they have had little interest in the rates on coal. There is no record of any lake cargo coal ever having been shipped from the Connellsville district. It is asserted, however, that because of the introduction in recent years of by-product ovens for the manufacture of coke and other products, and the rapid increase in the development of by-product plants, which for economic reasons can not be located in the Connellsville district, the time is coming and will soon be at hand when the beehive oven will have to be abandoned and instead of manufacturing and shipping coke the operators in the Connellsville district must seek an outside market for their coal. It is further asserted that the Connellsville coal is not especially adapted for coking in by-product ovens; that many other coals, by proper mixtures, are as good for use in connection with the by-product processes; and that when the time comes that Connellsville must ship its coal it will come into active competition with the coals produced in the Pittsburgh and other districts for by-product and other uses. These general statements of the interveners were not controverted and may be assumed to be true, but whether or not conditions will change as apprehended, Connellsville is entitled to just and reasonable rates on its coal, regardless of the purpose or purposes for which it may be used. A further discussion of the intervenor's position and contentions and the conditions which prompted the intervention herein will be found in *Bituminous Coal to Central Freight Association Territory*, page 130, *ante*.

Several reasons are advanced in support of the proposal to include the Connellsville district with the Pittsburgh district, it being shown, for example, that the rate on coke, westbound, from certain points in the Pittsburgh district is the same as from the Connellsville district, and that on eastbound shipments of coal the rates from a large portion of the Pittsburgh district and from the Connellsville district are the same. The greater part of the testimony and discussion upon brief, however, relates to the question of the distance to the lake ports from the Connellsville district as compared with the distance from the Pittsburgh district, and the effect that would be produced upon the average distance by combining the two districts.

Several exhibits were filed by the interveners and the carriers purporting to show the average distances from the Pittsburgh and Connellsville districts, respectively, and much discussion was had as to the proper method to be employed in computing the distances

and making the comparisons. Much of the discussion was somewhat technical and need not be referred to in detail. It seems sufficient to state that the interveners make the claim that in the exhibits presented by the carriers certain of the mines in the Connellsville district are represented more than once, the result being to show greater average distances than the facts warrant. There was also considerable discussion as to the distances to be used from mines on the Monongahela Railway in the southern part of the Connellsville district. This carrier owns no equipment but is furnished with coal car equipment by the Pittsburgh & Lake Erie, the Pennsylvania, and the Baltimore & Ohio railroads. The interveners contend that the short route should be used in computing the distance from the mines on the Monongahela Railway, while the carriers take the position that, inasmuch as the mines on this road are served by the three trunk line carriers named, each of the routes should be represented in computing the distance to the lake ports.

The following table, compiled from exhibits filed by the interveners, shows the relative distances upon which they rely in support of their contentions:

Distances to Cleveland, Ohio.

Originating carrier.	From Connellsville district.			From Pittsburgh district.		
	Mines.	Miles.	Average.	Mines.	Miles.	Average.
B. & O.....	49	11,222.7	229	18	3,512	195.1
P. R. R.....	43	8,543	198.7	139	24,280.1	174.5
P. & L. E.....	4	950.7	237.7	40	8,835.9	220.9
Totals and averages.....	96	20,716.4	215.8	197	36,608	185.8
Mon. Ry.....	51	10,399	203.9	.....	.....	.....
Totals and averages.....	147	31,115.4	211.7	197	36,608	185.8
E., C., C. & St. L.....	.....	.....	.....	47	7,284	155
W. P. T.-W. S. B.....	.....	.....	.....	15	2,997.4	199.8
P. & M.....	.....	.....	.....	1	178	178
Montour.....	.....	.....	.....	8	1,520.2	190
Totals and averages.....	147	31,115.4	211.7	268	48,587.6	181.3

SUMMARY.

	Mines.	Miles.	Average distance
From Connellsville district.....	147	31,115.4	211.7
From Pittsburgh district.....	268	48,587.6	181.3
Totals and averages.....	415	79,703	192.1

The foregoing table shows that by combining the two districts the average distance to Cleveland would be increased by only 10.8 miles over the distance from the Pittsburgh district as at present constituted, but it also shows that the average distances from the Connells-

ville district to Cleveland exceed those from the Pittsburgh district as shown in the following tabulation:

From mines on—	Average distances from—		Excess distance Connells-ville over Pitts-burgh.
	Connells-ville district.	Pitts-burgh district.	
	<i>Miles.</i>	<i>Miles.</i>	<i>Miles.</i>
B. & O.....	229	195.1	33.9
P. R. R.....	198.7	174.5	24.2
P. & L. E.....	237.7	220.9	16.8
Average.....	215.8	185.8	30
Mon. Ry.....	203.9		
Average.....	211.7	185.8	25.9
P., C., C. & St. L.....		155	
W. P. T.-W. S. B.....		199.8	
P. & M.....		178	
Montour R. R.....		190	
Average.....	211.7	181.3	30.4

Cleveland is not the nearest lake port via any of the routes, but if comparisons of average short-line distances, as shown by the interveners, be made, we have the following:

Originating carrier.	Nearest lake port.	Average distances from—		Excess distance Connells-ville over Pitts-burgh.
		Connells-ville district.	Pitts-burgh district.	
		<i>Miles.</i>	<i>Miles.</i>	<i>Miles.</i>
B. & O.....	Fairport.....	202	168.1	33.9
P. R. R.....	Ashtabula.....	185.2	161	24.2
P. & L. E.....	do.....	183.6	166.8	16.8
Mon. Ry.....	do.....	190.4		
Average.....		192.6	165.9	26.7

The interveners also attempted to show the approximate weighted average distances from the Connellsville district compared with similar distances from the Pittsburgh district, but as no lake cargo coal has moved from the Connellsville district it was necessary to estimate the tonnage that may move and we do not regard the results shown as being entitled to serious consideration.

As hereinbefore explained, each of the trunk line carriers serving the Connellsville district publishes rates on and furnishes cars for lake cargo coal from the mines on the Monongahela Railway, and under such conditions they take the position that each trunk line is entitled to include the mines on that road in computing the average distances to the lake ports. The following table shows the distances

from the Pittsburgh and the Connellsville districts as computed by the three carriers named therein:

Carrier.	Lake port.	Connellsville district.			Pittsburgh district.			Excess distance Connellsville over Pittsburgh.
		Number of mines.	Total miles.	Average distance.	Number of mines.	Total miles.	Average distance.	
B. & O.....	Fairport.....	108	23,655	219	20	3,260	163	56
Do.....	Cleveland.....	108	26,352	244	20	3,780	188	56
Do.....	Lorain.....	108	29,808	276	20	4,400	220	56
Pa. lines.....	Ashtabula.....	94	17,623	188	140	22,120	158	30
Do.....	Cleveland.....	94	15,988	202	140	23,240	166	36
Do.....	Erie.....	94	19,740	210	140	24,780	177	33
P. & L. E.....	Ashtabula.....	55	10,505	191	62	9,424	152	39
Do.....	Cleveland.....	55	10,835	197	62	9,920	160	37
Totals and averages.....		716	157,555	220	604	100,904	167	53

Average distances from the Connellsville district were also shown under the method of assigning one-third of the mines on the Monongahela Railway to each of the trunk lines. This resulted as follows:

Carrier.	Lake port.	Average distances from—		Excess distance Connellsville over Pittsburgh.
		Connellsville district.	Pittsburgh district.	
		Miles.	Miles.	Miles.
B. & O.....	Fairport.....	215	163	52
Do.....	Cleveland.....	240	188	52
Do.....	Lorain.....	272	220	52
Pa. lines.....	Ashtabula.....	187	158	29
Do.....	Cleveland.....	201	166	35
Do.....	Erie.....	209	177	32
P. & L. E.....	Ashtabula.....	187	152	35
Do.....	Cleveland.....	193	160	33
Averages.....		219	167	52

It appears that in computing the distances as shown above, the carriers not only included, as to the Connellsville district, the mines on the Monongahela Railway, but that, as to distances from the Pittsburgh district, the mines on such originating carriers as the Montour Railroad, the Wabash Pittsburgh Terminal Railway, and the West Side Belt Railway were also included by each of the trunk lines over which the coal from such mines is forwarded.

The following table shows the shortest and the longest haul from each of the districts to the nearest lake port from mines on the three carriers serving both the districts, and from mines on the Monongahela Railway via the Pennsylvania lines, which route appears to be the shortest:

Originating carrier.	Lake port.	Distances to nearest lake port.			
		From Pittsburgh district.		From Connellsville district.	
		Shortest.	Longest.	Shortest.	Longest.
		<i>Miles.</i>	<i>Miles.</i>	<i>Miles.</i>	<i>Miles.</i>
B. & O.	Fairport.	145.2	177.2	184	219.2
P. & L. E.	Ashcabi.	149.1	181.9	182.9	184.5
P. R. R.	do.	130.9	191.5	168.4	201
Mon. Ry.	do.			178.1	207.8

The above table indicates that by combining the two districts the haul on the Baltimore & Ohio would be increased 42 miles, or 23.7 per cent; on the Pittsburgh & Lake Erie 2.6 miles, or 1.4 per cent; on the Pennsylvania Railroad 9.5 miles, or 5 per cent; and from mines on the Monongahela Railway via the Pennsylvania lines 16.3 miles, or 8.5 per cent.

The exhibits filed by the interveners show that there are 147 mines in the Connellsville district which may be expected to ship lake cargo coal and of this number 49 are on the Baltimore & Ohio, 51 on the Monongahela Railway, 43 on the Pennsylvania Railroad, and 4 on the Pittsburgh & Lake Erie. Since the mines on the Monongahela Railway are served by each of the three trunk lines, the practical effect of combining the two districts would mean extending the distances on the Baltimore & Ohio and Pittsburgh & Lake Erie by much greater percentages than indicated above; furthermore, one-third of the mines are located on the Baltimore & Ohio and on that road alone the increased haul would be 42 miles, or 23.7 per cent. The longest hauls over the Pennsylvania lines from the Pittsburgh district appear to be from mines on the Pennsylvania Railroad south of West Brownsville and include the mines shipping from Clyde and Besco, the haul from the latter point being the longest of record. The Pittsburgh district rate was established to the two points named by our orders in *Clyde Coal Co. v. P. R. R. Co.*, *supra*, and *Pitt Gas Coal Co. v. P. R. R. Co.*, *supra*, for the reasons explained in those reports.

To comply with the petition of the Connellsville district interveners would mean greatly enlarging the Pittsburgh district and greatly increasing the length of the haul to the lake ports, thus supplying reasons for somewhat higher rates from that district. Considering the present boundaries of the Pittsburgh district and the relatively short haul to the lake ports, we are of the opinion that the interveners have not justified their proposal to combine the two districts under the same freight rate, but that the present adjustment is unduly prejudicial to the Connellsville district and unduly prefer-

ential of the Pittsburgh district. The matter of the relationship of the rates from the Pittsburgh district and from the Connellsville and other districts will be later discussed herein.

THE MEYERSDALE INTERVENTION.

Certain coal operators in the Meyersdale district were permitted to intervene in the case and based their plea upon the ground that they are unjustly grouped with the New River and Pocahontas districts. They ask to be grouped with the Fairmont and Connellsville districts, which grouping will, they claim, accord to them the benefit of their natural geographical location and remove the discrimination which they assert now exists under the present rate structure.

The record contains evidence as to the relative merits of the coals produced in the several districts. It is claimed by the respondents that by reason of the quality of the coal produced in the Meyersdale district, shippers in that district are not able to successfully compete with the operators shipping from the New River and Pocahontas districts. On the other hand, the interveners contend that they do successfully compete in the eastern markets because they have a fair and reasonable rate adjustment.

The volume of lake cargo coal shipped from the Meyersdale district, 1910 to 1914, inclusive, was relatively light; the record shows:

	Tons.
From Meyersdale district.....	157,080
From New River district.....	2,943,599
From Pocahontas district.....	7,658,984

The Meyersdale district lies generally east and northeast of the Connellsville and Fairmont districts, respectively, and is served by the Baltimore & Ohio Railroad.

We find that the distances from the Meyersdale district are more than 100 miles shorter than from the New River and Pocahontas districts, but somewhat longer than from the Fairmont and the Connellsville districts. The lake cargo coal traffic from the Meyersdale district must pass through either the Connellsville or the Fairmont district, and the transportation conditions from these districts are of the same general character but dissimilar to those from the New River and the Pocahontas districts, in that the traffic from the former districts is handled by a single line of railway, while from the latter named districts not less than two lines are involved in the hauls to the lake ports. While there is a similarity of conditions from the Meyersdale, Fairmont, and Connellsville districts, we must give due consideration to other features and the greater distance from the Meyersdale district. For similar reasons we must differentiate the New River and Pocahontas district from the Meyersdale district.

From a broad view of the situation and a careful examination of the record, but without at this time considering the reasonableness *per se* of the rate from any of the coal districts, we are of the opinion and so find that the interveners have established their case so far as the question of grouping Meyersdale with New River and Pocahontas is concerned, but that the grouping of the Meyersdale district with the Fairmont and the Connellsville districts has not been justified. The matter of the relationship of rates from the several districts involved will be disposed of later herein.

THE RELATIONSHIP OF RATES FROM THE SEVERAL DISTRICTS.

In the *Boileau Case, supra*, we used 148 miles (p. 642) as representing the distance from the Pittsburgh district to Ashtabula, and the average distance from the Pittsburgh district to all lake ports was shown as 160 miles (p. 645). These figures were based upon the record in that case and upon a statement filed in *Investigation and Suspension Docket 26 to 26 C, supra*. Evidence was introduced in the present proceeding to show that the average distances on the Pennsylvania lines as shown by exhibits of record in the cases last cited were in error and that the average distances from the Pittsburgh district via the Pennsylvania lines are: To Ashtabula 157 instead of 148 miles, and to Cleveland, Ashtabula, and Erie combined 166 instead of 157 miles. The record in the present proceeding as to distances is more complete, the straight average and the approximate weighted average distances being shown, not only from the Pittsburgh district but from all the districts to all the lake ports by all the principal routes. The method by which the average distances were obtained is explained in the note following Table A. It will be observed that only approximate weighted average distances are shown but we will hereinafter refer to such distances as the weighted average. The exhibits containing this information show the straight average distance from the Pittsburgh district to all lake ports to be 188 miles and the weighted average distance for the period 1910-1914 to be 163.46. To Ashtabula the weighted average distance for the five-year period 1910-1914 was 155.61 miles. It is further shown that for the year 1915 the weighted average distance to all lake ports was 163.76 miles and to Ashtabula 155.54 miles, and for the year 1916, to all lake ports 165.92 miles and to Ashtabula 155.18 miles. It is stated by the respondents that the weighted average haul from the Pittsburgh district shows a tendency to increase because of the relative increase in the movement of lake cargo coal to Conneaut and Sandusky involving long hauls. The shortest distance shown from the Pittsburgh district is via the Pittsburgh & Lake Erie and New York Central to Ashtabula, 152 miles, and the longest via the Pennsylvania lines to Sandusky, 263 miles.

Other distances which greatly exceed the averages to all lake ports are via the Baltimore & Ohio to Sandusky, 256.6 miles, and to Lorain, 219.9 miles. While the rate on lake cargo coal from the Pittsburgh district to Sandusky is the same as to other lake ports, the rate on commercial coal is 25 cents higher to Sandusky than to Cleveland and other near-by ports. The chief witness for the carriers testified that he did not think the Pittsburgh lines should handle coal from the Pittsburgh district to Sandusky for transshipment and expressed the opinion that the rate via such route should be withdrawn. The inclusion of the routes to Sandusky has little effect upon the weighted average distance, as relatively little tonnage moves from the Pittsburgh district to that port, but these long distances affect the straight average distance materially. In view of the fact that the Pennsylvania lines reach the ports of Ashtabula, Cleveland, and Erie, distant 157, 167, and 173 miles, respectively, and the Baltimore & Ohio rails reach the ports of Fairport and Cleveland, distant 164 and 189 miles respectively, it would appear that the longer distances to Sandusky, and perhaps to Lorain as well, should not be included in computing the distances to be used as representing a fair average haul from the Pittsburgh district to the lake ports. It is observed, however, that a considerable tonnage of lake cargo coal from the Pittsburgh district moves to Lorain over the Baltimore & Ohio, although the heaviest movement is to Fairport, which is the nearest lake port on that line.

It appears from the facts set forth above that the average of 148 miles used in the *Boileau Case* as representing the distance from the Pittsburgh district to Ashtabula and the distance of 160 miles shown as the average to all lake ports, were in error, and that both the straight average and the weighted average distances are somewhat greater. Since, however, in this proceeding we must consider the rate from the Pittsburgh district as a whole, over all, or at least over the principal direct and practical routes, we need not further consider the distance to Ashtabula alone, which is the nearest lake port. The short-line average distances by the several routes are as follows:

	Miles.
P. & L. E. ¹ ; N. Y. C. to Ashtabula.....	152
Penna. lines to Ashtabula.....	158
B. & O. ¹ to Fairport.....	163
W. S. B.; W. P. T.; W. & L. E. to Huron.....	171
U. R. R. ¹ ; B. & L. E. to Conneaut.....	181
Total.....	825

Five routes are involved, and one-fifth of the total mileage equals 165 miles, which is approximately the weighted average distance.

¹ In computing the average distance, mines on such originating carriers as the Montour R. R., W. S. B. Ry., and W. P. T. Ry. have been included in cases where rates were applicable over the routes indicated.

The carriers in their joint brief use a distance of 166 miles in computing the ton-mile earnings produced by the rate of 78 cents from the Pittsburgh district. It seems to us that anything less than this would not fairly represent the average haul of lake cargo coal from the Pittsburgh district.

The complainant presented a number of exhibits for the purpose of showing that the rate from the Pittsburgh district based on short-line mileages was high when compared with the rates from other districts. The tables presented show that the Pittsburgh rate of 78 cents is high when compared with the rates from West Virginia and Kentucky on the basis of—

- (a) Earnings per ton per mile, for loaded movement only.
- (b) Deducting 14 cents for terminal services and applying a rate per ton per mile to the remainder and considering only the loaded movement.
- (c) Deducting 14 cents for terminal services and applying a rate per ton per mile after assigning the estimated empty mileage for the return haul to each district.
- (d) Sixth-class scale of rates applicable in central freight association territory.

Table C shows the rates and distances from representative originating districts to north Atlantic ports and to Lake Erie ports. During the pendency of this proceeding the rates to the Lake Erie ports from all of the districts under investigation were advanced generally by 15 cents per short ton, the rates from the southern West Virginia districts to the Atlantic ports of Lamberts Point on the Norfolk & Western and Newport News on the Chesapeake & Ohio were advanced by 10 cents per long ton, and the rates from the northern West Virginia, Pennsylvania, and Maryland districts to the Atlantic ports, Baltimore to New York inclusive, were advanced by 5 cents per long ton. For convenience in making comparisons all rates have been stated in Table C in cents per short ton.

Compared on a distance basis both the former and the present rates from the southern West Virginia districts to the lake ports are lower than to the Atlantic ports. Thus, comparing the former rates, we find that to the Atlantic ports of Lamberts Point and Newport News from the Pocahontas, Tug River, Clinch Valley, Thacker, and Kenova districts on the Norfolk & Western Railway and from the New River and Kanawha districts on the Chesapeake & Ohio Railway, and the Kanawha district on the Kanawha & Michigan Railway, the distances to tidewater range from 398 to 531 miles and the revenue per ton-mile from 3.14 to 2.52 mills, while the distances to the lake ports from the southern West Virginia and Kentucky fields range from 329 to 487 miles and the ton-mile revenues from 2.91 to 1.99 mills. In other words, the distances to the lake ports average less than to tidewater but for the shorter haul to the lake the ton-mile earnings are less than for the longer hauls to tidewater. It is also to be noted that as to the Norfolk & Western and the Chesapeake

& Ohio only a single line is involved in the hauls to tidewater while as to the lake traffic not less than two lines participate in the hauls. The former as well as the present rates from the southern West Virginia districts to tidewater also appear to be on a somewhat lower basis than from the northern West Virginia, Pennsylvania, and Maryland districts.

In the *Boileau Case*, *supra*, we said (p. 654): "By comparison with the rates from other coal-producing areas, such as the rates from the West Virginia and Illinois fields, the Pittsburgh rate [of 88 cents] is high." While in that case the comparison was made with the 88-cent rate to Ashtabula only, the statement seems true as to the 78-cent rate from the Pittsburgh district as a whole to all the lake ports. The following statement shows the percentages that the rates from the West Virginia and the Kentucky districts are of the rate from the Pittsburgh district:

Originating district.	Rates investigated.		Present rates.	
	Rate.	Per cent of Pittsburgh.	Rate.	Per cent of Pittsburgh.
Pittsburgh.....	78	100	93	100
Fairmont.....	90	115	105	113
Kanawha.....	97	124	112	120
Thacker-Kanova.....	97	124	112	120
Kentucky.....	97	124	112	120

and in the table that follows a comparison is made on a percentage basis of the distances, the details of which are shown in Table D:

Originating district.	Shortest distance.		Straight average distance, all routes.		Straight average distance, shortest routes.		Weighted average distance, 1910-1914.	
	Miles.	Per cent of Pittsburgh.	Miles.	Per cent of Pittsburgh.	Miles.	Per cent of Pittsburgh.	Miles.	Per cent of Pittsburgh.
Pittsburgh.....	152	100	188	100	165	100	163	100
Fairmont.....	244	161	257	137	246	149	250	153
Kanawha.....	322	212	351	187	334	202	331	204
Thacker-Kanova.....	333	219	342	182	333	202	334	205
Kentucky.....	358	236	425	227	422	256	463	284

The foregoing table shows that the comparison most favorable to the West Virginia and Kentucky districts is on the basis of the straight average distances via all routes, and applying the percentages shown under this heading to the 78-cent rate from the Pittsburgh district would produce the following rates from the other districts:

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Originating district.	Rate.	Distance (miles).	Per cent of Pittsburgh distance.	Rates produced by applying percentage of the Pittsburgh distance (cents).
Pittsburgh.....	78	188	100	78
Fairmont.....	90	287	137	107
Kanawha.....	97	351	187	146
Thacker-Kenova.....	97	342	182	142
Kentucky.....	97	428	227	177

The proper amount to be allowed for terminal services was not determined, but by arbitrarily deducting for such services allowances of 10, 15, 20, and 25 cents, respectively, from the rates and applying the above percentages to the remainder and adding to the result thus obtained the deductions made, we have the following rates:

Originating district.	Deductions for terminal services.			
	10 cents.	15 cents.	20 cents.	25 cents.
Pittsburgh.....	<i>Cents.</i> 78	<i>Cents.</i> 78	<i>Cents.</i> 78	<i>Cents.</i> 78
Fairmont.....	108	101	99	98
Kanawha.....	137	133	129	124
Thacker-Kenova.....	134	130	126	121
Kentucky.....	164	158	152	145

While important in itself the matter of distance is of course only one of the factors or elements that should be considered in disposing of the questions here at issue, and the record contains much helpful information with respect to transportation and other conditions which may properly have consideration.

Table E shows the tonnage of lake cargo and vessel fuel coal received at the several lake ports for transshipment during each of the calendar years 1910 to 1914, inclusive, and the names of the delivering carriers. It also shows the tonnage of iron ore forwarded from the same ports during the same period by the carriers that brought in the coal. This statement shows that the great bulk of the ore is forwarded from the lake ports, Huron, Ohio, on the west to Erie, Pa., on the east, at which ports is received the lake cargo coal originating in the Ohio, Pennsylvania, and northern West Virginia fields, and that relatively little ore is forwarded from Toledo and none in recent years from Sandusky, which latter two are the ports of transshipment for the coal from the southern West Virginia and Kentucky fields. Assuming that there is no return loading for the coal cars other than iron ore, the statement would indicate on its face that the percentage of empty movement to the loaded haul was much the greater on the roads serving the southern West Virginia and

Kentucky fields, and that this situation really exists is conclusively shown by the figures in Table F, which, together with Table G, contain operating statistics and other information relative to the operating conditions obtaining on representative routes serving the principal districts. It is shown in Table F, for example, that during the year ended June 30, 1916, of 1,337 carloads of coal forwarded by the Chesapeake & Ohio to Toledo only 8 cars were reloaded at the lake port for the return haul, and that of 2,515 cars forwarded by the Norfolk & Western to Sandusky all were returned empty to the mines; on the other hand, it appears that the carriers serving the Pittsburgh district are enabled to load at the lake ports for movement in the general direction of the mines in that district from 80 to 94 per cent of the coal cars made empty at the lake ports.

From the information contained in Tables F and G the following comparisons may be made with respect to the transportation of lake cargo coal from the Pittsburgh district and from the southern West Virginia and Kentucky districts:

Items.	From Pittsburgh district taking a 78-cent rate.		From West Virginia and Kentucky districts taking a 97-cent rate.	
	Lowest.	Highest.	Lowest.	Highest.
1. Revenue per car.....	\$36.41	\$42.05	\$40.55	\$48.50
2. Revenue per car per mile, loaded movement.....cents..	17.44	26.43	9.81	13.75
3. Revenue per car per mile, loaded and empty movement.....cents..	14.68	21.37	6.06	6.95
4. Revenue per car per day, loaded movement.....	\$3.00	\$4.90	\$2.58	\$3.47
5. Revenue per car per day, loaded and empty movement.....	\$2.56	\$4.37	\$2.06	\$2.66
6. Revenue per train-mile.....	\$7.50	\$21.54	\$6.07	\$9.57
7. Locomotive tractive power miles from assembling yard to lake port per ton of coal transported.....	2,170	6,026	6,752	10,323

In the foregoing table items 1 to 6, inclusive, reflect the revenues produced by the freight rates, and item 7 is representative in a measure at least of the relative expense of transporting the traffic. This latter item is the product of the locomotive tractive power, expressed in pounds, by the locomotive-miles divided by the average net tons per train and reflects the power or energy employed in moving a ton of coal from the assembling yard in each of the districts represented by the figures to a certain lake port and affords perhaps the best basis available of record for comparing the relative costs for the road haul of transporting lake cargo coal from the several fields. Using this item as a basis for the computation the Pittsburgh complainant presented a table showing that, compared with the Pittsburgh district rate of 78 cents, the rate from the Kanawha, Thacker, and Kentucky districts should be 173 cents instead of 97 cents.

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Certain interveners by using the basic figures shown in Table G have computed the locomotive tractive power miles per ton-mile from the several general producing districts which is shown to be as follows:

Ohio districts.....	24. 49
Pittsburgh district.....	23. 86
Kanawha, Thacker, and Elkhorn districts.....	21. 76
New River-Pocahontas districts.....	20. 79

The corresponding figures for individual routes indicate that the expenditure of power per ton-mile varies greatly, as shown in the following table:

Originating district.	Route.	Lake port.	Tractive power miles per ton-mile.
Ohio fields:			
Hocking.....	H. V.....	Toledo.....	20. 05
No. 8.....	W. & L. E.....	Huron.....	25. 77
Cambridge.....	Pa. Co.....	Cleveland.....	31. 73
Pittsburgh district.....	P. & L. E.; N. Y. C.....	Ashtabula.....	15. 25
Do.....	P. & E. R.....	Cleveland.....	20. 82
Do.....	P., C. & C. & St. L.; Pa. Co.....	Ashtabula.....	25. 05
Do.....	W. S. B.; W., F. T.; W. & L. E.....	Huron.....	20. 05
Do.....	M. R. R.; U. R. R.; B. & L. E.....	Conneaut.....	33. 29
West Virginia fields:			
Pocahontas.....	N. & W.; Pa. Co.....	Sandusky.....	20. 20
Thacker.....	do.....	do.....	20. 80
Kanawha.....	C. & O.; N. & W.; H. V.....	Toledo.....	21. 05
New River.....	do.....	do.....	21. 43
Kanawha.....	K. & M.; T. & O. C.....	do.....	25. 39
Kentucky district.....	S., V. & E.; C. & O.; C., H. & D.....	do.....	20. 92

Certain of the interveners operating mines on the Norfolk & Western Railway filed a formal protest to the admission in evidence of certain exhibits, particularly those reproduced in part herein as Tables E, F, and G, and we are asked upon brief to make a specific finding upon the question of the exclusion of this evidence.

The exhibits from which Tables F and G were compiled are summaries of special reports submitted by the respondents under oath in compliance with a formal order of the Commission, and the objection to the admission of such exhibits was on the ground that they were not competent evidence, because no opportunity was given the interveners to test the accuracy and relevancy of the special reports by the cross-examination of witnesses competent to testify concerning the statements made and the data contained therein. The objection related particularly to those portions of the exhibits having to do with the Norfolk & Western Railway and the Pennsylvania Company, which lines form a through route from the Pocahontas and Thacker districts to the port of Sandusky.

So far as concerns Table E, no question was raised as to the accuracy of the tonnage figures shown therein, but the interveners desired

to show by representatives of the respondents that the conditions surrounding the movement of the ore traffic and the switching and handling of cars from the coal docks to the ore docks at the lake ports and from the ore furnaces back to the coal mines might be such as to detract from the desirability of the ore traffic and the apparent economies and saving in operating expenses incident to the return loading of the cars used in transporting the coal to the lake ports.

The special reports from which the figures contained in Tables F and G were compiled were, as stated, submitted by the respondents under oath upon order of the Commission, and their acceptance by the Commission and admission as evidence appears to be in strict accordance with the law governing such matters. Section 20 of the act provides:

The Commission shall have authority by general or special orders to require said carriers, or any of them * * * to file periodical or special * * * reports concerning any matters about which the Commission is authorized or required by this or any other law to keep itself informed * * *

and section 16 provides, in part, that—

* * * the statistics, tables, and figures contained in the annual or other reports of the carriers made to the Commission as required under the provisions of this act * * * shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings.

The interveners, of course, had the right under the law to controvert this evidence in any proper manner, and upon request therefor subpoenas for any witnesses they desired to examine would have been issued by the Commission, but no such request was made although an opportunity was afforded them to do so. It does not appear that the interveners have been denied any of their rights, and under the circumstances as outlined above we see no impropriety in making use of the information contained in the special reports submitted by the carriers or in the other exhibits to which objection was made, and must regard the data contained therein as properly of record and a part of the evidence in the case.

Certain of the West Virginia, Kentucky, and Tennessee interveners contend that inasmuch as the movement to the lake ports is only a part of a through movement that the entire distance from the mines to the ultimate destination of the coal in the northwestern states should be given consideration, and by equating the water haul to an equivalent distance by rail they seek to show that on the basis of the distance thus computed to certain specific points in the northwest and the total charges which the lake cargo coal traffic is required to bear, the present rates from West Virginia and Kentucky are properly related to the rates from Pittsburgh and Ohio districts and that the present differential might even be reduced.

The total cost which it is alleged is properly chargeable against the lake cargo coal traffic from the mines to interior destinations in the northwest is made up of the following items:

- (a) The rail rate from the mines to lower lake port,
- (b) Transferring the coal from the car to the vessel at the lower lake port,
- (c) Lake transportation,
- (d) Marine insurance,
- (e) Handling the coal from vessel to dock at upper lake port,
- (f) Handling the coal from dock to car at upper lake port,
- (g) Degradation of coal from handling, etc.,
- (h) Rail rate upper lake port to destination.

The record shows that the rates charged by the rail carriers from the mines to the lower lake ports are not related to the charges beyond. That is to say, any one of the several separate charges may be changed without affecting the others, and as a matter of fact the charges for the water haul have fluctuated greatly in recent years without affecting the rail charges. Tariffs for the water haul and the other services performed in connection with the transportation of the coal after it has been delivered by the rail lines to the vessels at the lower lake ports until it is again accepted by the rail lines for transportation from the upper lake ports to interior points are not filed with this Commission and it has never exercised jurisdiction over the individuals or companies performing such intermediate services. The haul to the lake ports is unquestionably a part of a through movement and because of this fact the rate may well be different from that for a purely local movement to the same ports, but the proposition to consider the entire distance the traffic moves does not, in the absence of a specific through rate, appeal to us as reasonable, for to apply this principle would, as the total distance increases, finally result in lessening the differential until the rate to the lake ports from all the districts would be the same, and to carry it to its logical conclusion would require that rates to the lower lake ports be established with relation to the final destination of the coal. So far as the respondent carriers are concerned, their connection with the transportation of lake cargo coal ends when the coal is delivered to the vessels at the lower lake ports and they have no interest in the charges beyond the ports save to the extent that the amount of such charges may affect the movement of the traffic. We must therefore deal with the charges for the services which they perform, separately and distinctly from any other charges or any other services.

The effect of our order in *Pittsburgh Vein Operators Association of Ohio v. Penna. Co.*, *supra*, was to establish from the Ohio No. 8 district a differential under Pittsburgh of 3 cents. The hauls from the Ohio No. 8 district to the lake ports generally involve only a single line of railway; the hauls are shorter than from the Pitts-

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burgh district, and we find no reason for changing the relationship of the rates from these two districts. For a number of years the carriers have applied from the Cambridge, Hocking, Jackson, and Pomeroy districts in Ohio the same rate as from the No. 8 district, and when the reduction from 85 to 75 cents hereinbefore referred to was made from the No. 8 district the carriers voluntarily included the other Ohio districts named in the adjustment, thus maintaining the parity that had previously existed. While there would appear to be some justification for somewhat higher rates from certain of these Ohio districts than from the No. 8, no complaint was made of the grouping and no change therein was suggested, and under the circumstances we see no reason for disturbing it. Somewhat similar remarks might very appropriately be made with respect to the grouping of the West Virginia and Kentucky districts. We will, therefore, in the discussion that follows, treat as one group the several districts in Ohio and those in West Virginia and Kentucky, respectively, which take the same rate.

The following table shows the average distances from the more important districts and groups of districts. Further detail as to distances will be found in Table D:

Originating district.	Rate.	Straight average distances.		Weighted average distances, 1910-1914.
		All routes.	Short routes.	
Ohio No. 8.....	75	166	137	150
Cambridge.....	75	178	165	154
Hocking.....	75	203	199	196
Average.....	75	178	168	166
Pittsburgh.....	78	188	165	163
Connellsville.....	90	227	199	.....
Fairmont.....	90	257	246	250
Kanawha.....	97	351	324	381
Thacker-Kenova.....	97	342	333	334
Kentucky.....	97	428	421	463
Average.....	97	364	359	381
New River.....	112	442	400	405
Pocahontas.....	112	431	422	423
Average.....	112	435	411	418
Altoona.....	112	257	244	259
Meyersdale.....	112	305	255	305
Cumberland-Piedmont.....	112	347	318	343

None of the respondent carriers serves all of the districts but the Pennsylvania Company serves the Ohio No. 8 and the Cambridge districts and participates in the haul from the Pennsylvania fields and from the West Virginia districts on the Norfolk & Western

to Sandusky; the Kanawha & Michigan serves both the Kanawha and the Hocking districts; the Hocking Valley and the Toledo & Ohio Central each serves the Hocking district directly, and each of these carriers forms a part of a through route for traffic from the West Virginia fields, a part of which moves through the Hocking district to Toledo; the Baltimore & Ohio serves the three Ohio districts, as well as the Pittsburgh, the Connellsville, the Fairmont, the Meyersdale, and the Cumberland-Piedmont districts. The last two districts named are served only by the Baltimore & Ohio on westbound traffic. The Pennsylvania Railroad serves the Altoona district, and the Pittsburgh & Lake Erie and the Pennsylvania Railroad each serves the Pittsburgh and the Connellsville districts.

The following statement shows the revenue per ton per mile from the several districts and the revenue per ton per mile that is earned on the differentials or the excess rate from one district compared with that from another for the additional haul:

Comparisons.	Straight average distances.		Weighted average distances.
	All routes.	Short routes.	
Revenue per ton per mile from Ohio No. 8, Cambridge, and Hocking districts combined.....	4.21	4.46	4.63
Revenue per ton per mile from Kanawha, Thacker-Kenova, and Kentucky districts combined.....	2.66	2.70	2.66
Excess distance from Kanawha, Thacker-Kenova, and Kentucky districts over that from Ohio No. 8, Cambridge, and Hocking districts.....	166	191	235
Revenue per ton per mile for excess distance.....	1.23	1.15	1.02
Revenue per ton per mile from New River and Pocahontas districts combined.....	2.67	2.73	2.66
Excess distance from New River and Pocahontas districts over that from Kanawha, Thacker-Kenova, and Kentucky districts.....	71	82	87
Revenue per ton per mile for excess distances.....	2.11	2.88	4.06
Revenue per ton per mile from Pittsburgh district.....	4.15	4.73	4.79
Revenue per ton per mile from Ohio No. 8 district.....	4.62	5.47	5.00
Revenue per ton per mile from Fairmont district.....	3.50	3.66	3.60
Excess distance from Fairmont district over that from Pittsburgh district.....	69	81	87
Revenue per ton per mile for excess distance.....	1.74	1.48	1.38
Excess distance from Fairmont district over that from Ohio No. 8 district.....	11	109	100
Revenue per ton per mile for excess distance.....	1.66	1.38	1.50
Excess distance from Fairmont district over that from Ohio No. 8, Cambridge, and Hocking districts.....	79	78	84
Revenue per ton per mile for excess distance.....	1.90	1.91	1.78
Revenue per ton per mile from Connellsville district.....	3.96	4.62	-----
Excess distance from Connellsville district over that from Pittsburgh district.....	39	34	-----
Revenue per ton per mile for excess distance.....	3.08	3.53	-----
Revenue per ton per mile from Meyersdale district.....	3.67	4.39	3.67
Excess distance from Meyersdale district over that from Connellsville district.....	78	56	-----
Revenue per ton per mile for excess distance.....	3.62	3.93	-----
Excess distance from Meyersdale district over that from Fairmont district.....	48	9	55
Revenue per ton per mile for excess distance.....	4.58	24.44	4
Revenue per ton per mile from Cumberland-Piedmont district.....	3.23	3.62	3.27
Excess distance from Cumberland-Piedmont district over that from Connellsville district.....	120	119	-----
Revenue per ton per mile for excess distance.....	1.83	1.83	-----
Excess distance from Cumberland-Piedmont district over that from Fairmont district.....	90	72	98
Revenue per ton per mile for excess distance.....	2.44	3.06	2.37

It will be observed from the foregoing table that the additional charge from the West Virginia-Kentucky 97-cent group of 22 cents over the Ohio group is the equivalent of 1.02 to 1.33 mills per ton per mile while the differential of 15 cents between the New River-Pocahontas group on the one hand and the West Virginia-Kentucky 97-cent group on the other hand is the equivalent of 2.11 to 4.05 mills per ton per mile. This latter revenue per ton-mile equals or exceeds the ton-mile revenue for the through hauls from West Virginia and Kentucky. Furthermore, the increase in mileage in West Virginia over the 97-cent group is on single lines of railway, namely, the Chesapeake & Ohio between the Kanawha and the New River districts and the Norfolk & Western between the Thacker and Pocahontas districts, while to reach the West Virginia and Kentucky fields from the Ohio fields involves another group of roads which do not serve the Ohio fields. In other words, the lake cargo coal from West Virginia must be transported by two or more roads while the bulk of the tonnage from Ohio moves over single lines of railway. In passing from West Virginia and Kentucky to Ohio the Ohio River must also be crossed on costly bridges. From a transportation standpoint this fact is entitled to consideration in the fixing of differentials.

A somewhat similar situation exists with respect to the rates from the Fairmont district as compared with the rates from the Pittsburgh and Ohio districts on the one hand and from the Meyersdale and Cumberland-Piedmont districts on the other hand, except in this case all of the districts named are served by the same carrier, namely, the Baltimore & Ohio Railroad. It is interesting to note in this connection that the revenue per ton per mile for the excess distance from the Meyersdale district over the distance from the Fairmont district is greater than the ton-mile revenue from the Fairmont district to the lake ports. It will also be observed that the revenue per ton per mile for the excess distance from the Connellsville district over that from the Pittsburgh district is only slightly less than the revenue per ton per mile from the Fairmont district to the lake ports and greatly in excess of the revenue per ton per mile for the excess distance from the Fairmont district over that from the Ohio districts and the Pittsburgh district, respectively.

It is clear from the record in these and other cases and the facts hereinbefore stated, that distance and transportation conditions have had little or no consideration in the fixing of the rate structure on lake cargo coal. Other considerations such as the difference in the kind and quality of the coal, market and commercial conditions and competition between the carriers have had a controlling influence in determining the measure and relationship of these rates.

Certain of the West Virginia and Kentucky interveners insist that some of their coals, because of their character or quality, or both, are not competitive with the coals from the Ohio and Pittsburgh districts; on the other hand, the Ohio and the Pittsburgh district operators assert just as strongly that all the coals compete and that any and all of the West Virginia and Kentucky coals, including the so-called semibituminous and by-product coals, may be used for any purpose for which the Ohio and Pittsburgh district coals are used. From the evidence it appears that all of the coals moving in the lake cargo traffic are more or less competitive, and that most of those produced in the Ohio, the Pittsburgh, the Fairmont, the Kanawha, the Thacker-Kenova, and the Kentucky districts are highly so. The Pocahontas, the New River, the Meyersdale, the Cumberland-Piedmont, and the Altoona district coals are of a somewhat different character and compete with each other and to a lesser degree with the coals produced in the other districts.

Considering all of the facts and circumstances as shown by the record in this proceeding and by the record and report in *Bituminous Coal to Central Freight Association Territory, supra*, in so far as here applicable, we are of the opinion, and so find, that the relationship of the rates on lake cargo coal from the several districts is, and for the future will be, unduly preferential and prejudicial to the extent that the difference, differential, or spread in the rates as between the several districts named differs from that provided below:

- Ohio No. 8, Cambridge and Hocking districts, 3 cents under Pittsburgh district.
- Connellsville district, 6 cents over Pittsburgh district.
- Altoona district, 22 cents over Pittsburgh district.
- Fairmont district, 18 cents over Ohio No. 8, Cambridge, and Hocking districts.
- Meyersdale district, 16 cents over Connellsville district.
- Cumberland-Piedmont district, 12 cents over Fairmont district.
- Kanawha, Kenova-Thacker, and Kentucky districts, 28 cents over Ohio No. 8, Cambridge, and Hocking districts.
- New River and Pocahontas districts, 15 cents over Kanawha, Kenova-Thacker, and Kentucky districts.

There are several districts other than those named above, particularly in northern Ohio and northern Pennsylvania, but the shipments of lake cargo coal from such districts are relatively light. Some of these districts were not represented at the hearings and none of them took an active part in the proceeding. We will not, therefore, at this time undertake to establish a relationship in the rates from those districts but will leave the initiative in this regard to the carriers serving the districts. If the rates and the relationships proposed by the carriers are not satisfactory to the shippers of lake cargo coal, the matter may be brought to our attention.

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THE INCREASED RATES NOW IN EFFECT.

At the last hearing in these cases, held on April 3, 1917, six of the respondents offered testimony bearing upon the increase in the prices of new equipment, bituminous coal, and material and supplies generally. This testimony was to the general effect that during the greater part of the year 1916 a large percentage of their total purchases, particularly of coal, was under contracts entered into when conditions were more normal and prices were generally lower than they were during the latter part of 1916 and the early part of 1917, and that as these contracts expired and were renewed, the prices they had to pay, and consequently their expenses, were greatly increased.

From the exhibits filed, a table has been compiled showing the average prices paid during each of the years 1912 to 1916, inclusive, and the estimated prices for 1917 for locomotives, freight cars, coal, and 55 miscellaneous articles used in large quantities by each of the carriers. This compilation is reproduced in the appendix as Table H. The average prices for the years 1912 to 1915, inclusive, are also shown, as well as the average quantity of each article purchased per annum during the years 1912 to 1916, inclusive. By applying to the average annual quantity purchased, the average prices paid for the four years named above and the estimated prices for 1917, respectively, the increased cost to the carriers of the articles enumerated may be approximated. Such approximate increased cost is shown in the following tabulation:

Carrier.	Total cost per year.		Estimated increased cost per year.	
	At average prices, 1912-1915.	At estimated prices for 1917. ¹	Amount.	Per cent.
B. & O. R. R.	\$21,033,000	\$22,192,000	\$11,159,000	53
Pa. lines west of Pittsburgh	26,518,000	24,259,000	9,744,000	40
N. Y. C. R. R. west of Buffalo	10,439,000	15,604,000	5,115,000	49
N. & W. R.	9,862,000	15,859,000	5,876,000	59
C. & O. Ry.	5,531,000	13,364,000	4,833,000	87
P. & L. E. R. R.	4,968,000	7,095,000	2,130,000	43
Totals	79,513,000	118,373,000	38,860,000	49

¹ In most cases the prices used in producing the amounts shown in this column are the estimated prices for 1917 shown in Table H. In a few instances prices different from those were used.

The estimated increased cost shown in the foregoing table includes the following estimated increases in the cost of coal and equipment:

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Carrier.	Coal.	Equip- ment.	Total.
B. & O. R. R.....	\$3,089,000	\$3,938,000	\$6,027,000
Pa. lines west of Pittsburgh.....	3,513,000	1,902,000	5,415,000
N. Y. C. R. R. west of Buffalo.....	326,000	1,536,000	885,000
N. & W. Ry.....	2,491,000	718,000	3,209,000
C. & O. Ry.....	1,248,000	1,656,000	3,204,000
P. & L. E. R. R.....	872,000	79,000	951,000
Totals.....	10,539,000	9,152,000	19,691,000

¹ The equipment purchased by the former L. S. & M. S. Ry. for the years 1912 and 1913 was shown separately but for the years 1915 and 1916 the purchases are shown for the N. Y. C. R. R. Co. as a whole. A proportion of the purchases by the latter named company has been assigned to the line west of Buffalo on a mileage basis.

The witnesses for the carriers named below estimated that the purchases shown by the exhibits represented the following percentages of the total annual purchases:

Carrier	Percentage of all pur- chases shown to total annual purchases.	Percentage of pur- chases of articles other than coal and equipment to the total of such articles
C. & O. Ry.....	.....	56.15
B. & O. R. R.....	67.70	40.24
N. & W. Ry.....	60.40	57.01
N. Y. C. R. R. west of Buffalo.....	50 to 60	.....
Pa. lines west of Pittsburgh.....	70.00	.....
P. & L. E. R. R.....	.....	170.00

¹ Including coal but excluding equipment

The respondents were requested to furnish to the Commission information as to the apportionment of the estimated increased expenditures as between operating expenses and capital investment, which information was not available at the time of the last hearing. Responses have since been received from three of the carriers. The estimates furnished are based upon the purchases of material and supplies during the calendar year 1916 and are as follows:

Carrier.	Amount of purchases of material and supplies other than fuel coal and equip- ment.	Per cent charged to—	
		Operat- ing ex- penses.	Capital account.
B. & O. R. R.....	\$22,213,712.00	80	10
C. & O. Ry.....	7,694,639.44	84	16
N. & W. Ry.....	11,776,809.00	74	26

As hereinbefore stated, the carriers assert that the year ended June 30, 1916, was an abnormal one and that it was the most pro-
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perous year in their entire history both as to gross and net revenues, and that the effect of the rising costs had not begun to be felt until late in the calendar year 1916.

At hearings held prior to April 3, 1917, testimony was introduced by the respondents to show the tendency in earnings and expenses since June 30, 1916, and comparisons were made of the operating results for the years ended June 30, 1912, 1915, 1916. A summary of the exhibits containing these comparisons has been reproduced as Tables I and J. The operations of 16 representative roads are shown, including the Cleveland, Cincinnati, Chicago & St. Louis Railway. The latter is not a party to this proceeding.

Briefly stated, it is shown by Table I that for the year ended June 30, 1915, as compared with 1912, the operating revenues increased 0.22 per cent and the operating expenses increased 1.71 per cent; the net operating income decreased 8.26 per cent and the return on investment decreased from 5.33 per cent in 1912 to 4.43 per cent in 1915. For the year ended June 30, 1916, compared with 1912, the revenues increased 13.14 per cent, the operating expenses increased 15.73 per cent, the net operating income increased 45.92 per cent, and the return on investment increased from 5.33 per cent in 1912 to 6.88 per cent in 1916.

Table J shows the operating results for the last six months of 1916, compared with the same months of 1915, and indicates a declining tendency in the operating income beginning with the month of October, 1916. Thus, in July the increase in operating income was 18.1 per cent, in August 18.5 per cent, in September 2.5 per cent, while in October there was a decrease of 1.2 per cent, in November 13.1 per cent, and in December 18.3 per cent.

It was to meet, in a measure, the situation described, which the carriers regard as a serious one, that the rates on lake cargo coal were increased during the pendency of the proceedings involving the reasonableness and the relationship of these rates. The present rates on lake cargo coal appear to be regarded both by the shippers and by the carriers as being in the nature of emergency rates made necessary to a large extent by the conditions arising because of the world war, and under such circumstances we will not attempt now to pass upon the reasonableness *per se* of the rates on this traffic. The carriers will be expected so to revise their present schedules as to make effective the relationships in lake cargo coal rates hereinbefore prescribed.

THE COAL DOCKS AT THE LAKE PORTS.

The respondents at the request of the Commission filed a joint exhibit showing for the years ended June 30, 1912 to 1916, inclusive,

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their investment in and the results of the operation of the coal docks at Lake Erie ports over which docks the lake cargo coal is handled in transferring from the cars to the vessels. Complete data as to all of the docks were not obtainable for the year 1912, but for the years 1913 to 1916, inclusive, the exhibit shows an average cost of 5.24 cents per ton for all tonnage handled over these docks. The great bulk of the tonnage handled consisted of lake cargo coal, but some vessel fuel, or "bunker" coal, as well as a small tonnage of coke was handled. The charge for handling lake cargo coal is 5 cents per short ton and the charge for handling vessel fuel coal and coke is somewhat higher. The average receipts per ton for the years 1913-1916, as shown by the exhibit, was 4.91 cents for all traffic handled over the docks, but this average is brought down by the inclusion of the figures for the Baltimore & Ohio docks at Lorain. As herein before pointed out certain of the carriers, including the Baltimore & Ohio, publish rates f. o. b. vessel, and it is apparent from the detail accompanying the exhibit that on the lake cargo coal from mines in Ohio, the rates on which are stated by the Baltimore & Ohio as applicable f. o. b. vessel, no credit was allowed to the dock operations. The result was to show the revenue for the docks of this carrier to be less than 5 cents per ton, and the inclusion of the Baltimore & Ohio figures in the exhibit served to decrease the average receipts per ton shown for all the docks to less than 5 cents. Excluding the Baltimore & Ohio docks, the average receipts for 1913-1916 at all the other docks was 5.15 cents per ton as against a cost of 5.61 cents per ton. The average cost, including the Baltimore & Ohio figures was, as stated, 5.24 cents per ton.

There were included in the costs the items of operating expenses, depreciation, taxes, insurance, other expenses, and 6 per cent interest on the investment in dock properties. In Table K of the appendix further details are given.

In *Iron Ore Rate Cases*, 41 I. C. C., 181, the matter of separation of charges for different classes of service was discussed, and the difficulty of analyzing the ore-rate structure, as well as the lack of uniformity in accounting, statistics, etc., resulting from the failure of all the carriers operating iron-ore docks at the lower Lake Erie ports to provide separate charges therefor, was pointed out. In the supplemental report in the *Iron Ore Rate Cases*, 44 I. C. C., 368, the respondents therein were ordered to establish and maintain separate charges for the services performed by them at their ore docks. The situation with respect to lake cargo coal is very similar, except the coal traffic moves in the opposite direction to that of the ore. Since some of the respondents now provide in their tariffs separate charges for the line-haul service and the dock service, respectively, we shall, in the

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interest of uniformity; and in order that the shippers of lake cargo coal may know definitely and specifically for what services they are required to pay, and the amount thereof, require that each of the carriers respondent herein owning or operating coal docks at any of the lower Lake Erie ports hereinbefore named state in their tariffs the amount in cents per short ton charged against the lake cargo coal traffic (a) for the line-haul service from the mines to the docks at the lake port, and (b) for the service of transferring the coal from the cars to the vessel at the docks.

An order will be issued giving effect to our findings herein.

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APPENDIX.

TABLE A.—Statement showing the rates (in cents per ton of 2,000 pounds) on lake cargo coal, and the distances, from various originating districts to lower Lake Erie ports.

[The rates shown are those in effect when the cases were heard, and apply to o. b. cars on the docks at the lake ports. (See explanatory note following table.)]

Originating district.	Originating carrier.	Lake port.	Delivering carrier.	Rates investigated.	Short tons, 1910-1914.	Straight average distance (miles).	Approximate weighted average distance 1910-1914 (miles).	
							To individual lake ports.	To all lake ports.
Butler-Mercer	B. & L. E.	Conneaut	B. & L. E.	\$0.55	(¹)	98.1		
Masillon	B. & O.	Sandusky	B. & O. ....	.60	41	111.1		134.76
Do.	W. & L. E.	Toledo	W. & L. E. ....	.70	494	137		
Middle	do.	Huron	do. ....	.60	246	121.1		
Do.	B. & O.	Lorain	B. & O. ....	.60	680	101.1		
Do.	N. Y. C.	do.	do. ....	.65	193,551	160		
Do.	do.	Cleveland	Erie .....	.60	327,549	106.5		126.63
Do.	W. & L. E.	do.	W. & L. E. ....	.60	2,640	119		
Do.	N. Y. C.	Ashabula	N. Y. C. ....	.60	11,867	143		
Northern Ohio	Pa. Co.	Cleveland	Pa. Co. ....	.60	17,832	96		94.64
Do.	do.	do.	Erie .....	.60	2,071	83		
Northern Pennsylvania	B. & L. E.	Conneaut	B. & L. E. ....	.63	954,995	132.3		
Do.	Pa. lines	Erie	Pa. lines .....	.66	1,343	197		132.30
Ohio No. 8	W. & L. E.	Toledo	W. & L. E. ....	.75	6,489	201		
Do.	Pa. Co.	Sandusky	Pa. Co. ....	.75	127,244	113		
Do.	B. & O.	do.	B. & O. ....	.75	45,453	136.3		
Do.	N. Y. C.	do.	do. ....	.75	45,533	197		207.61
Do.	W. & L. E.	Huron	do. ....	.75	3,303,115	147		
Do.	W. & L. E.	do.	W. & L. E. ....	.75	48,037	147.94		146.83
Do.	do.	Lorain	do. ....	.75	4,495,031	140.8		
Do.	B. & O.	do.	B. & O. ....	.75	6,104	181		149.84
Do.	N. Y. C.	Cleveland	Pa. Co. ....	.75	690,577	131		
Do.	do.	do.	do. ....	.75	88,840	130.5		
Do.	N. Y. C.	do.	do. ....	.75	8,053	137		133.88
Do.	W. & L. E.	Ashabula	W. & L. E. ....	.75	208,209	159		
Do.	Pa. Co.	do.	Pa. Co. ....	.75	176,672	183		
Do.	do.	Erie	do. ....	.75				

¹ No record of any tonnage having moved during the years 1910 to 1914, inclusive.

TABLE A.—Statement showing the rates (in cents per ton of 2,000 pounds) on lake cargo coal, and the distances, from various originating districts to lower Lake Erie ports—Continued.

Originating district.	Originating carrier.	Lake port.	Delivering carrier.	Rates invoi- ced.	Short tons, 1910-1914.	Straight average distance (miles).	Approximate weighed aver- age distance 1910-1914 (miles).	
							To ind- vidual lake ports.	To all lake ports.
Pomeroy.....	H. V.....	Toledo.....	H. V.....	\$0.75	(1)	264		
Hocking.....	do.....	do.....	do.....		3,130,307	195		
Do.....	T. & O. C.....	do.....	T. & O. C.....	.75	2,074,070	194		
Do.....	Z. & W.....	do.....	do.....	.75	865,691	206	198.55	
Do.....	K. & M.....	do.....	do.....	.75	30,124	241		
Do.....	C. H. & D.....	do.....	C. H. & D.....	.85	261	290		198.71
Do.....	B. & O. S. W.....	do.....	do.....	.85	13,631	277		
Do.....	B. & O. S. W.....	Sandusky.....	B. & O.....	.75	7,469	192.7		
Do.....	B. & O. S. W.....	do.....	do.....	.85	1,487	300	208.88	
Do.....	C. H. & D.....	do.....	do.....	.85	4,459	281		
Do.....	C. H. & D.....	Lorain.....	do.....	.75	31,031	250.8		
Cambridge.....	Pa. Co.....	Sandusky.....	Pa. Co.....	.75	5,397	174		
Do.....	B. & O.....	do.....	B. & O.....	.75	144,666	179.9	179.68	154.06
Do.....	do.....	Lorain.....	do.....	.75	110,641	203.3		
Do.....	Pa. Co.....	Cleveland.....	Pa. Co.....	.75	3,101,390	151		
Pittsburgh.....	W. S. B. W. P. T.....	Huron.....	W. & L. E.....	.78	2,447,002	171		
Do.....	B. & O.....	Lorain.....	B. & O.....	.78	982,975	219.9		
Do.....	Pa. Lines.....	Cleveland.....	Pa. Co.....	.78	11,809,240	196		
Do.....	F. & L. E.....	do.....	Erie.....	.78	4,464,411	190	164.41	
Do.....	B. & O.....	do.....	B. & O.....	.78	35,988	187.6		
Do.....	do.....	Fairport.....	do.....	.78	2,267,626	152.5		
Do.....	Pa. Lines.....	Ashabula.....	Pa. Co.....	.78	18,283,118	188		
Do.....	F. & L. E.....	do.....	N. F. C.....	.78	10,060,450	159	155.61	108.46
Do.....	B. & L. E.....	Conneaut.....	B. & L. E.....	.78	1,489,849	181.4		
Do.....	Pa. Lines.....	Erie.....	Pa. Co.....	.78	3,404,203	177		
Do.....	do.....	Sandusky.....	do.....	.78	422,337	293	263	
Do.....	B. & O.....	do.....	B. & O.....	.78	(1)	256.6		
Fairmont.....	Mon. Ry.....	Ashabula.....	Pa. Co.....	.90	(1)	244		
Do.....	B. & O.....	Cleveland.....	B. & O.....	.90	(1)	245.4	248.4	260.08
Do.....	do.....	do.....	do.....	.90	(1)	252		
Do.....	Mon. Ry.....	do.....	do.....	.90	9,381	517		
Do.....	B. & O.....	Lorain.....	B. & O.....	.90	3,713	249.8		
Do.....	Mon. Ry.....	Erie.....	Pa. Co.....	.90	3,713	293		
Do.....	B. & O.....	Sandusky.....	B. & O.....	.90	41,586	286.4		

Baltimore	C. & C.	Lorain	904	138,891	346.8	346.05
Do.	do.	Sandusky	904	545	282.4	
Kanawha	K. & M.	Toledo				
Do.	C. & C.	do.	97	2,340,370	222	
Do.	K. & W. V.	do.	97	137,186	227	
Do.	C. & O.	do.	97	14,960	231	
Do.	K. & M.	do.	97	1,981,074	357	
Do.	C. & C.	T. & O. C.	97	2,625,626	320	280.75
Do.	K. & W. V.	do.	97	70,840	334	
Do.	C. & O.	do.	97	40,730	338	
Do.	C. & W.	do.	97	54	372	
Do.	do.	do.	97	6,142,711	445	
Thacker-Kenova	N. & W.	do.				
Do.	do.	do.	97	179,041	343	284.08
Do.	do.	do.	97	40,683	351	
Do.	do.	Sandusky	97	2,062,167	383	
Kentucky	C. & O.	Toledo	97	26,736	358	
Do.	do.	do.	97	570,513	440	402.80
Do.	S. V. & E.	do.	97	608,175	487	
New River	C. & O.	Toledo	1.12	2,702,710	400	405.15
Do.	do.	do.	1.12	197,889	484	
Clinch Valley	N. & W.	Sandusky	1.12	(1)	490.4	
Peebontas	do.	Toledo	1.12	183,175	431	
Do.	do.	do.	1.12	153,468	440	402.54
Do.	do.	Sandusky	1.12	7,507,486	522	
Cumberland-Piedmont	B. & O.	do	1.12	10,109	380.1	
Do.	do.	Lorain	1.12	219,824	343.5	345.02
Do.	do.	Fairport	1.12	19,283	318.1	
Meyersdale	do.	Sandusky	1.12	243	349	
Do.	do.	Lorain	1.12	196,089	312.8	304.76
Do.	do.	Fairport	1.12	20,798	254.9	
Altoona	P. R. R.	Cleveland	1.12	86,328	255	
Do.	do.	Ashabula	1.12	30,067	244	268.80
Do.	do.	Erle	1.12	54,418	273	
Radford	N. & W.	Sandusky	1.47	(1)	502.5	

1 No record of any tonnage having moved during the years 1910 to 1914, inclusive.
 2 The distance of 205.3 miles is via the B. & O. all the way. Rates are also published via Cambridge, Pennsylvania Co., Dover, and B. & O. over which route the distance is only 145.6 miles.

The tonnage shown for this route originates on the Union Railroad and other roads connecting with the Union, such as the Montour Railroad and the West Side Belt Railway. The evidence shows that a new line known as the Chesapeake & Ohio Northern Railway and owned by the Chesapeake & Ohio Ry. Co. is under construction from a point on the C. & O. near Portsmouth, Ohio, to a connection with the Norfolk & Western south of Columbus, Ohio; that this new line will be placed in operation sometime during the summer of 1917; that the C. & O. expects to route most of its lake cargo coal traffic over this new route, and that when this condition shall have been brought about the route via Cincinnati and the C. H. & D. Ry. will be practically abandoned; that the new route will be from 70 to 100 miles shorter than the route via Cincinnati, and that the effect of this change in routing will be to reduce somewhat the average distances shown in Tables A and D from the Kentucky, the Kanawha, and the New River districts.

TABLE A.—Statement showing the rates (in cents per ton of 2,000 pounds) on Lake cargo coal, and the distances, from various originating districts to lower Lake Erie ports—Continued.

Originating districts.	Originating carrier.	Lake port.	Delivering carrier.	Rates invested. 1910-1914.	Short tons, 1910-1914.	Straight average distance (miles).	Approximate weighted average distance for ton- nage moving un- der the same rate 1910-1914 (miles).	
							From in- dividual districts.	From all districts.
Masillon.....	B. & O.....	Sandusky.....	B. & O.....	\$0.60	41	111.1	110.73	109.84
Middle.....	Various.....	Various.....	Various.....	.60	343,083	.....	94.64	.....
Northern Ohio.....	do.....	Cleveland.....	do.....	.60	19,923	.....	.....	.....
Northern Pennsylvania.....	B. & L. E.....	Conneaut.....	B. & L. E.....	.63	954,965	132.3	.....	.....
Middle.....	N. Y. C.....	Lorain.....	B. & O.....	.65	163,881	160	.....	.....
Northern Pennsylvania.....	Pa. lines.....	Erie.....	Pa. lines.....	.68	1,343	197	.....	.....
Masillon.....	W. & L. E.....	Toledo.....	W. & L. E.....	.70	484	137	.....	.....
Ohio No. 8.....	Various.....	Various.....	Various.....	.75	9,045,442	.....	149.83	.....
Hocking.....	do.....	do.....	do.....	.75	6,128,692	.....	196.45	160.02
Cambridge.....	do.....	do.....	do.....	.75	3,362,024	.....	154.06	.....
Pittsburgh.....	do.....	do.....	do.....	.78	53,640,387	.....	103.46	163.46
Hocking.....	do.....	do.....	do.....	.85	19,898	.....	274.77	274.77
Fairmont.....	do.....	do.....	do.....	.90	9,445,402	.....	260.78	260.78
Belington.....	C. & C.....	Lorain.....	B. & O.....	.94	54,025	346.8	.....	.....
Kanawha.....	Various.....	Various.....	Various.....	.97	14,302,589	.....	381.00	.....
Thacker-Kenova.....	N. & W.....	do.....	do.....	.97	2,281,891	.....	384.08	380.78
Kanawha.....	Various.....	do.....	do.....	.97	1,255,424	.....	462.86	.....
New River.....	C. & O.....	Toledo.....	do.....	1.12	2,943,999	.....	405.16	.....
Pocahontas.....	N. & W.....	Various.....	do.....	1.12	7,812,159	.....	422.54	.....
Cumberland-Piedmont.....	B. & O.....	do.....	B. & O.....	1.12	249,216	.....	343.03	.....
Keyersdale.....	do.....	do.....	do.....	1.12	187,080	.....	304.76	.....
Altoona.....	P. R. R.....	do.....	Pa. Co.....	1.12	170,813	.....	268.80	412.18

The evidence shows that a new line known as the Chesapeake & Ohio Northern Railway and owned by the Chesapeake & Ohio Ry. Co. is under construction from a point on the C. & O. near Portsmouth, Ohio, to a connection with the Norfolk & Western south of Columbus, Ohio; that this new line will be placed in operation some time during the summer of 1917; that the C. & O. expects to route most of its lake cargo coal traffic over this new route, and that this condition shall have been brought about the route via Cincinnati and the C., H. & D. Ry. will be practically abandoned; that the new route will be from 70 to 100 miles shorter than the route via Cincinnati, and that the effect of this change in routing will be to reduce somewhat the average distances shown in Tables A and D from the Kentucky, the Kanawha, and the New River district.

Note.—The "straight average" distances shown in Table A were arrived at by dividing the sum of the distances to the lake port from each mine served by each route by the number of mines served; the "approximate weighted average" distances were obtained by using as factors the tonnage transported over each route and the corresponding straight average distance. The tonnage shipped from each mine was not shown of record, therefore the actual weighted average distances could not be computed.

TABLE B.—Late cargo coal shipments by districts, 1911 to 1916, inclusive.

District.	1911		1912		1913		1914		1915		1916	
	Tons.	Per cent of total.	Tons.	Per cent of total.	Tons.	Per cent of total.	Tons.	Per cent of total.	Tons.	Per cent of total.	Tons.	Per cent of total.
Pittsburgh.....	10,071,660	46.57	9,963,670	46.43	12,261,334	45.70	10,216,126	47.78	9,360,166	43.78	8,672,939	35.12
Pennsylvania, other than Pittsburgh.....	155,877	.72	158,719	.74	301,179	1.12	423,609	1.98	269,533	1.25	94,709	.38
Northern Ohio.....	140,196	.66	32,213	.15	225,826	.84	16,463	.08	175,178	.81	147,723	.60
Hooking.....	1,870,925	8.34	1,228,249	5.74	1,397,718	5.21	784,456	3.43	315,846	1.47	827,906	3.33
Ohio No. 8.....	1,926,304	8.90	2,352,996	10.76	2,966,710	11.13	42,333	.20	1,271,829	6.91	3,172,132	12.55
Cambridge.....	672,639	3.11	769,679	3.61	1,036,773	3.86	463,336	2.13	721,474	3.36	1,154,212	4.67
Farmont.....	1,784,279	8.26	1,696,729	7.92	2,161,628	8.06	2,214,672	10.36	2,060,408	9.44	1,617,946	6.55
Kanawha.....	3,107,533	14.37	2,214,066	10.39	2,966,321	11.02	3,465,943	16.21	3,502,840	16.29	4,203,933	17.02
Truicker-Kenova.....	380,619	1.76	366,140	1.72	587,648	2.19	637,167	2.93	623,343	2.92	594,571	2.38
Cumberland-Piedmont.....	43,546	.20	34,750	.16	32,741	.12	35,961	.17	26,229	.12	11,260	.05
New River.....	689,217	2.96	968,965	4.64	498,338	1.82	414,474	1.94	333,671	1.57	505,996	2.03
Pennontas.....	1,322,192	6.12	1,622,467	7.51	1,995,116	7.46	1,880,260	8.79	2,176,676	10.12	2,660,823	10.63
Kentucky.....	9,513	.05	26,661	.13	397,120	1.46	868,837	4.01	701,174	3.26	919,756	3.73
Total.....	21,637,003	100.00	21,210,004	100.00	26,680,347	100.00	21,383,617	100.00	21,507,374	100.00	24,662,966	100.00

TABLE C.—Rates on coal in carloads from representative producing districts to Lake Erie ports and to north Atlantic ports.

[See note following table.]

Originating district.	Route.	Port.	Straight average distance (miles).	Former rate.	Present rate.	Revenue per ton per mile (mills).	
						Former rate.	Present rate.
Pocahontas.....	N. & W.....	Lamberts Point, Va. ¹	398	\$1.25	\$1.34	3.14	3.37
Tug River.....	do.....	do.....	425	1.25	1.34	2.93	3.15
Clinch Valley 1 and 2.....	do.....	do.....	437	1.25	1.34	2.93	3.15
Thacker.....	do.....	do.....	461	1.34	1.43	2.91	3.10
Kenova.....	do.....	do.....	495	1.43	1.52	2.89	3.07
Pocahontas.....	N. & W.; Pa. Co.....	Sandusky, Ohio ¹	422	1.12	1.27	2.65	3.01
Clinch Valley.....	do.....	do.....	450	1.12	1.27	2.48	2.82
Thacker-Kenova.....	do.....	do.....	338	.97	1.12	2.91	3.36
New River.....	C. & O.....	Newport News, Va. ¹	427	1.25	1.34	2.92	3.14
Kanawha.....	do.....	do.....	531	1.24	1.43	2.52	2.69
New River.....	C. & O.; N. & W.; H. V.....	Toledo, Ohio ¹	400	1.12	1.27	2.80	3.17
Kanawha.....	do.....	do.....	357	.97	1.12	2.72	3.14
Kentucky.....	C. & O.; C. H. & D.....	do.....	440	.97	1.12	2.20	2.55
Do.....	S. V. & E.; C. & O.; C. H. & D.....	do.....	487	.97	1.12	1.99	2.90
Kanawha.....	K. & M.; C. & O.....	Newport News, Va. ¹	470	1.38	1.47	2.94	3.13
Do.....	K. & M.; T. & O. C.....	Toledo, Ohio ¹	329	.97	1.12	2.85	3.40
Cumberland-Piedmont.....	B. & O.....	Curtis Bay, Md. ¹	224	1.05	1.10	4.69	4.91
Meyersdale.....	do.....	do.....	241	1.05	1.10	4.35	4.58
West Virginia.....	W. M.; B. & O.; C. & C.; B. & O.....	do.....	307	1.28	1.32	4.17	4.30
Pittsburgh-Youghiogheny:							
Scott Haven.....	B. & O.....	do.....	297	1.28	1.32	4.31	4.44
Washington Run.....	do.....	do.....	298	1.28	1.32	4.48	4.62
Connellsville.....	do.....	do.....	298	1.28	1.32	4.48	4.62
Fairchance.....	do.....	do.....	298	1.28	1.32	4.48	4.62
Mount Braddock.....	do.....	do.....	298	1.28	1.32	4.48	4.62
Klondike.....	M. Ry.; B. & O.....	do.....	303	1.28	1.32	4.22	4.36
Fairmont, W. Va.....	B. & O.....	Lorain, Ohio ¹	250	.95	1.10	3.80	4.40
Pittsburgh.....	P. & L. E.; W. M.....	Port Covington (Baltimore, Md.) ¹	318	1.28	1.32	4.02	4.15
Do.....	W. S. E.; P. & L. E.; W. M.....	do.....	329	1.28	1.32	3.89	4.01
Westmoreland.....	P. R. R.....	Baltimore, Md. ¹	338	1.28	1.32	3.78	3.91
Clearfield.....	do.....	Philadelphia, Pa. ¹	282	1.12	1.16	3.95	4.11
Do.....	do.....	Baltimore, Md. ¹	255	1.05	1.10	4.12	4.31
Greensburg.....	do.....	do.....	302	1.14	1.19	3.79	3.94
Pittsburgh.....	Pa. lines.....	Harsimus (Jersey City, N. J.) ¹	448	1.78	1.83	3.98	4.08
Do.....	do.....	South Amboy, N. J. ¹	427	1.74	1.79	4.07	4.19
Do.....	do.....	Philadelphia, Pa. ¹	380	1.47	1.52	3.87	4.00
Clearfield.....	P. R. R.....	Harsimus (Jersey City, N. J.) ¹	354	1.43	1.47	4.03	4.15
Westmoreland.....	do.....	South Amboy, N. J. ¹	415	1.61	1.65	3.98	3.98
Pittsburgh.....	Pa. lines.....	Cleveland, Ohio ¹	166	.83	.98	5.00	5.90
Do.....	do.....	Ashtabula, Ohio ¹	158	.83	.98	5.26	6.20
Do.....	P. & L. E.; N. Y. C.....	do.....	152	.83	.98	5.46	6.45
Do.....	B. & O.....	Fairport, Ohio ¹	163	.83	.98	5.11	6.01
Do.....	W. S. E.; W. P. T.; W. & L. E.....	Huron, Ohio ¹	171	.83	.98	4.85	5.73

¹ The rates shown to this port apply l. o. b. cars on dock and do not include the service of transfer from car to vessel.² The rates shown to this port apply l. o. b. vessel and include the service of transfer from car to vessel.

NOTE.—The rates to the lake ports shown in the foregoing Table B apply on lake cargo coal and those to Atlantic ports apply to coal for transshipment to points "outside the cape." The rates to Atlantic ports are published per long ton, but for convenience in making comparisons they have been reduced to a short ton basis. All rates shown are per short ton.

TABLE D.—Average distances from originating districts.

Originating district.	Route.	Lake port.	Straight average distances (miles).		Approximate weighted average distance (miles).
			All routes.	Shortest routes.	
Ohio No. 8.....	N. Y. C.; Erie.....	Cleveland.....	130.50	130.50	133.88
Do.....	P. Co.....	do.....	134	134	
Do.....	W. & L. E.....	do.....	137	137	146.83
Do.....	W. P. T.; W. & L. E.....	Huron.....	134.94	134.94	
Do.....	W. & L. E.....	do.....	147		149.84
Do.....	B. & O.....	Lorain.....	149.80	149.80	
Do.....	N. Y. C.; B. & O.....	do.....	181		159
Do.....	P. Co.....	Ashtabula.....	159		
Do.....	do.....	Erie.....	183		207.61
Do.....	B. & O.....	Sandusky.....	186.30		
Do.....	N. Y. C.; B. & O.....	do.....	196		201
Do.....	P. Co.....	do.....	219		
Do.....	W. & L. E.....	Toledo.....	201		
Average.....			166.04	137.25	149.83
Cambridge.....	P. Co.....	Cleveland.....	151	151	151
Do.....	do.....	Sandusky.....	174		179.68
Do.....	B. & O.....	do.....	179.90	179.90	
Do.....	do.....	Lorain.....	205.30		205.30
Average.....			177.55	165.45	154.06
Hooking ¹	B. & O.....	Sandusky.....	159.70	159.70	159.70
Do.....	T. & O. C.....	Toledo.....	194	194	196.37
Do.....	H. V.....	do.....	195	195	
Do.....	Z. & W.; T. & O. C.....	do.....	206	206	
Do.....	K. & M.; T. & O. C.....	do.....	241	241	
Do.....	B. & O.....	Lorain.....	220.80		220.80
Average.....			202.75	199.14	196.45
Pittsburgh.....	P. & L. E.; N. Y. C.....	Ashtabula.....	152	152	156
Do.....	Pa. lines.....	do.....	158	158	
Do.....	B. & O.....	Fairport.....	163	163	164
Do.....	P. & L. E.; Erie.....	Cleveland.....	160		
Do.....	Pa. lines.....	do.....	166		171
Do.....	B. & O.....	do.....	188		
Do.....	W. S. B.; W. P. T.; W. & L. E.....	Huron.....	171	171	177
Do.....	Pa. lines.....	Erie.....	177		
Do.....	U. R. R.; ² B. & L. E.....	Conneaut.....	181	181	181
Do.....	B. & O.....	Lorain.....	220		263
Do.....	do.....	Sandusky.....	257		
Do.....	Pa. lines.....	do.....	263		
Average.....			188	165	163
Fairmont.....	M. Ry.; Pa. lines.....	Ashtabula.....	244	244	244
Do.....	B. & O.....	Cleveland.....	248	248	249
Do.....	M. Ry.; Pa. lines.....	do.....	252		
Do.....	B. & O.....	Lorain.....	250		250
Do.....	M. Ry.; Pa. lines.....	Erie.....	263		263
Do.....	B. & O.....	Sandusky.....	286		286
Average.....			257	246	250
Connellsville.....	Pa. lines.....	Ashtabula.....	188	188	(*)
Do.....	P. & L. E.; N. Y. C.....	do.....	191	191	
Do.....	Pa. lines.....	Cleveland.....	202		
Do.....	P. & L. E.; Erie.....	do.....	197		
Do.....	B. & O.....	do.....	244		
Do.....	do.....	Fairport.....	219	219	
Do.....	Pa. lines.....	Erie.....	219		
Do.....	B. & O.....	Lorain.....	276		
Do.....	do.....	Sandusky.....	313		
Average.....			226.67	199.33	

¹Only those routes included over which the 75-cent rate applied. See Table A.²Mines on the West Side Belt Railway and the Montour Railroad were included in computing the distance via this route.³No shipments on which to compute a weighted average distance.

TABLE D.—Average distances from originating districts—Continued.

Originating district.	Route.	Lake port.	Straight average distances (miles).		Approximate weighted average distances (miles).
			All routes.	Shortest routes.	
Kanawha.....	K. & M.; H. V.....	Toledo.....	322	322	381
Do.....	C. & C.; K. & M.; H. V.....	do.....	327	327	
Do.....	K. & W. V.; K. & M.; H. V.....	do.....	331	331	
Do.....	C. & O.; N. & W.; H. V.....	do.....	357	357	
Do.....	K. & M.; T. & O. C.....	do.....	329		
Do.....	C. & C.; K. & M.; T. & O. C.....	do.....	334		
Do.....	K. & W. V.; K. & M.; T. & O. C.....	do.....	338		
Do.....	C. & O.; K. & M.; T. & O. C.....	do.....	372		
Do.....	C. & O.; C. H. & D. ¹	do.....	445		
Average.....			351	334	381
Thacker-Kenova.....	N. & W.; Pa. Co.....	Sandusky.....	333	333	333
Do.....	N. & W.; H. V.....	Toledo.....	342		344
Do.....	N. & W.; T. & O. C.....	do.....	351		
Average.....			342	333	334
Kentucky.....	C. & O.; N. & W.; H. V.....	Toledo.....	358	358	468
Do.....	C. & O.; C. H. & D. ¹	do.....	440		
Do.....	S. V. & E.; C. & O.; C. H. & D. ¹	do.....	457	457	
Average.....			428	422	468
New River.....	C. & O.; N. & W.; H. V.....	Toledo.....	400	400	405.18
Do.....	C. & O.; C. H. & D. ¹	do.....	494		
Average.....			442	400	405.18
Pecahontas.....	N. & W.; Pa. Co.....	Sandusky.....	422	422	422
Do.....	N. & W.; H. V.....	Toledo.....	431		435.58
Do.....	N. & W.; T. & O. C.....	do.....	440		
Average.....			431	422	422.54
Cumberland-Piedmont.....	B. & O.....	Fairport.....	318.10	318.10	318.10
Do.....	do.....	Lorain.....	348.50		348.50
Do.....	do.....	Sandusky.....	380.10		380.10
Average.....			347.23	318.10	348.02
Meyersdale.....	B. & O.....	Fairport.....	254.90	254.90	254.90
Do.....	do.....	Lorain.....	312.30		312.30
Do.....	do.....	Sandusky.....	349		349
Average.....			305.40	254.90	304.76
Altoona.....	Pa. lines.....	Ashtabula.....	244	244	244
Do.....	do.....	Cleveland.....	255		255
Do.....	do.....	Erie.....	273		273
Average.....			257.33	244	258.80

¹ See footnote 4, Table A, p. 197.

NOTE.—The "straight average" distances for individual routes and the "approximate weighted average" distances shown in Table D were arrived at as explained in the note following Table A. The "average" distances from the several districts via all routes and via the shortest routes, respectively, were obtained by dividing the sum of the distances over the several routes from each district by the number of routes involved. Under the caption "shortest routes" is shown as to each district the shortest route from the mines on each originating carrier serving that district.

TABLE E.—Statement showing the short tons of iron ore forwarded from the lower Lake Erie ports and the short tons of lake cargo and lake fuel coal received at such ports during the calendar years 1910 to 1914, both inclusive.

Lake port.	Carrier.	1910		1911		1912		1913		1914	
		Ore forwarded.	Coal received.	Ore forwarded.	Coal received.	Ore forwarded.	Coal received.	Ore forwarded.	Coal received.	Ore forwarded.	Coal received.
Toledo.....	T. St. L. & W.....	125,377	1,333,424	108,981	1,866,740	57,603	1,196,331	34,505	1,370,935	18,751	2,044,756
	C. H. & D.....	186,947	2,151,753	83,101	2,349,645	947,716	2,419,500	409,114	2,757,006	275,126	2,414,683
	H. V. & D.....	308,977	42,930	73,597	1,085,843	290,861	1,038,001	313,036	1,501,767	211,309	1,314,451
	Webash.....	42,930	17,536	73,597	15,541	170,689	25,491	180,725	18,890	104,529	14,462
	T. & O. C.....	172,657	23,002	47,980	13,539	.....	.....	.....	.....	.....	.....
	W. & L. E.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sandusky.....	P. A. Co.....	336,888	4,684,875	313,619	5,231,303	866,869	4,692,914	937,331	5,693,944	610,115	5,812,894
	Total.....	4,128	90,050	916	82,217	59,146	2,045,733	.....	46,552	.....	22,576
	B. & O.....	17,867	1,436,885	15,548	1,785,001	.....	271	.....	2,618,224	.....	2,533,262
	C. C. & St. L.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Huron.....	Total.....	21,995	1,526,935	16,464	1,867,218	.....	2,145,135	.....	2,664,776	.....	2,556,138
	W. & L. E.....	338,694	984,391	292,594	1,020,253	579,330	1,514,291	706,542	1,805,132	611,057	691,103
	W. & L. E.....	141,132	2,786,066	570,774	3,195,203	522,213	3,070,128	688,097	4,395,378	296,899	2,546,227
	B. & O.....	1,344,418	1,505,109	1,050,109	3,195,203	1,396,846	.....	1,182,886	.....	423,012	.....
South Lorain.....	Total.....	1,505,550	2,786,066	1,620,883	3,195,203	1,889,069	3,070,128	1,850,983	4,395,378	693,511	2,545,227
	N. Y. C. & St. L.....	423,226	640,372	540,372	.....	432,720	.....	490,831	.....	143,996	.....
	L. S. & M. S.....	268,884	138,268	138,268	.....	384,853	.....	530,526	.....	141,290	.....
	Total.....	772,110	.....	678,640	.....	817,573	.....	1,021,377	.....	285,286	.....
Cleveland.....	C. C. & St. L.....	4,486	10,096	19,323	.....	17,107	.....	3,526	.....	91	.....
	W. & L. E.....	1,717,220	1,291,067	1,214,454	1,679,901	16,844	.....	29,426	.....	1,710	.....
	B. & O.....	156,360	44,134	50,657	377,843	2,180,507	919,537	2,413,237	1,039,018	1,698,106	746,516
	P. A. Co.....	3,055,952	3,363,390	1,998,562	2,368,909	3,777,463	44,733	877,263	47,233	220,984	40,067
Fairport.....	Total.....	4,937,038	4,789,289	3,611,764	4,399,467	6,232,632	4,409,995	7,294,253	5,176,648	4,546,173	3,241,343
	B. & O.....	1,737,197	560,552	978,595	561,200	2,151,498	498,151	2,328,068	479,764	1,797,394	445,767

Antisabak.....	L. S. & M. S.....	8,976,427	2,684,483	4,465,064	2,246,080	5,223,429	1,940,271	5,707,498	2,242,904	3,977,716	1,086,598
	Pa. Co.....	3,990,686	2,814,733	2,776,497	3,324,538	8,953,735	2,852,002	3,716,088	3,900,475	2,530,553	3,379,057
	Total.....	9,977,058	5,499,216	7,241,561	5,569,618	9,132,157	4,811,933	9,423,531	6,143,469	6,508,269	5,305,265
Combsant.....	B. & L. E.....	7,514,256	783,388	8,075,147	271,684	8,576,931	626,702	9,043,115	1,020,000	6,980,806	542,498
	P. R. R.....	53,311		27,529		17,095		249,740		105,509	
	Pa. Co.....	751,878	435,013	205,694	594,544	84,167	916,938	221,446	948,628	74,858	1,228,763
	Total.....	804,819	435,013	233,223	594,544	101,962	916,938	471,196	968,628	181,487	1,238,763

TABLE F.—Summary of information (as shown in Commission's Exhibit No. 3) respecting movement, loading, etc., of cars containing shipments of lake cargo coal, as reported to the Interstate Commerce Commission by respondent carriers on Forms Nos. 1 and 1-A of Special Report Series Circular No. 26, dated Sept. 25, 1916.

[Period covered, July 1, 1915, to June 30, 1916, inclusive.]

1	2	3	4	5	6	7	8	9	10
Item. (See explanation of items, p. 209.)	Hooking district via H. V., Toledo.	Cambridge district via Pa. Co., to Cleveland.	Ohio No. 8 district via W. & L. E., to Huron.	Pittsburgh district via M. R. R., U. R. R., B. & L. E., to Connecticut Harbor.	Pittsburgh district via P. C. C. & St. C. Pa. Co., to Ashabula Harbor.	Pittsburgh district via P. R. R., P. L. west to Cleveland.	Pittsburgh district via P. R. R., F. L. west to Cleveland.	Pittsburgh district via P. & E., N. Y. C., Ashabula Harbor.	Pittsburgh district via W. S. R., W. P. R., W. & L. E., to Huron.
1. Name of assembling yard.....	Nelsonville.	Cambridge.	Adena.	Midlin Junction.	Scully.	Pittcairn.	Shire Oaks.	Glassport.	Rock.
2. Distance from assembling yard to lake port (miles).....	185	143	139.1	157.4	130	154	164	142.33	184
3. Freight rate per ton of 2,000 pounds.....	\$0.75	\$0.75	\$0.75	\$0.78	\$0.78	\$0.78	\$0.78	\$0.78	\$0.78
4. Number of carloads.....	461	1,412	890	287	1,757	515	480	922	465
5. Number of tons.....	22,804	72,713.70	43,894.90	11,622.55	88,348.75	27,763.40	22,463.25	43,035.30	21,886.70
6. Freight revenue.....	\$17,103.00	\$54,535.30	\$32,921.13	\$9,055.58	\$68,912.03	\$21,655.46	\$17,521.34	\$33,567.34	\$17,071.64
7. Total miles cars moved loaded.....	80,533	213,915	136,936.72	51,966.80	260,713	86,805	79,909	149,742.60	91,432.90
8. Total miles cars moved empty (assigned to lake cargo coal).....	76,172	31,172	32,067.13	9,774.40	74,774	14,537	21,361	27,400	17,870.90
9. Total miles cars moved loaded and empty.....	156,705	245,088	169,003.85	61,741.20	335,487	101,342	101,270	177,142.60	109,303.80
10. Total number of car-days in loaded movement.....	5,174	12,783	7,919	1,982	22,453	4,415	5,525	9,211	5,686
11. Total number of car-days in empty movement (assigned to lake cargo coal).....	1,558	2,076	1,312	391	3,408	659	953	1,256	985
12. Total number of car-days in loaded and empty movement.....	6,732	14,859	9,231	2,373	25,861	5,074	6,478	10,467	6,671
13. Number of cars reloaded at lake port.....	65	1,267	708	271	1,428	464	353	858	375
14. Number of cars forwarded from lake port empty.....	396	145	182	16	329	41	97	64	90
AVERAGES.									
15. Revenue per car.....	\$37.10	\$33.62	\$36.99	\$31.59	\$39.22	\$42.05	\$33.94	\$36.41	\$36.71
16. Revenue per car per mile for loaded movement (cents).....	19.01	25.49	24.04	17.44	26.43	24.95	21.93	22.42	18.67
17. Revenue per car per mile for loaded and empty movement (cents).....	10.32	22.25	19.48	14.68	20.54	21.37	17.30	18.95	15.62
18. Revenue per car per day for loaded movement.....	\$3.31	\$4.27	\$4.16	\$4.57	\$3.07	\$4.90	\$3.17	\$3.64	\$3.00
19. Revenue per car per day for loaded and empty movement.....	\$2.54	\$3.67	\$3.57	\$3.82	\$2.66	\$4.27	\$2.70	\$3.21	\$2.56
20. Number of tons per car (average load).....	49.37	51.50	49.32	40.50	50.28	53.91	49.92	46.68	47.07
21. Miles per car for loaded movement (average load).....	194.21	153.59	153.85	181.67	148.39	168.69	177.59	163.49	186.69

22. Miles per car for empty movement.....	164.30	22.00	20.00	43.50	20.20	47.47	20.70	22.00
23. Miles per car for loaded and empty movement.....	220.44	172.50	120.00	100.04	100.00	205.05	102.10	221.00
24. Number of days per car for loaded movement.....	11.22	8.05	5.00	12.72	4.06	12.06	5.09	12.25
24a. Charges to shipper at mine.....	1.15	1.22	2.01	2.57	1.10	1.25	2.12	1.45
24b. Charges to shipper at lake port.....	4.15	2.09	2.72	4.57	2.01	4.10	4.09	1.45
24c. Charges to carriers.....	5.54	4.27	4.74	4.54	2.57	4.05	5.02	1.45
24d. Number of days per car for empty movement.....	3.20	1.47	1.47	1.04	1.23	2.12	1.30	2.12
25. Number of days per car for loaded and empty movement.....	14.50	10.52	10.27	14.72	9.86	14.40	11.25	14.35
26. Miles per car per day for loaded movement.....	17.20	14.72	17.09	11.41	19.06	14.40	14.30	14.00
26a. Miles per car per day for empty movement.....	48.00	12.02	24.44	21.04	22.00	22.41	21.30	12.14
26b. Miles per car per day for loaded and empty movement.....	24.00	16.40	12.31	12.97	19.97	15.00	10.00	10.30

TABLE F.—Summary of information (as shown in Commission's Exhibit No. 3) respecting movement, loading, etc., of cars containing shipments of lake cargo coal, as reported to the Interstate Commerce Commission by respondent carriers on Forms Nos. 1 and 1-A of Special Report Series Circular No. 26, dated Sept. 25, 1916—Continued.

Item.	11	12	13	14	15	16	17	18	19
	Connellsville district via Cleveland and Fairport Harbor.	Freeport district via B. & L. E. to Connaught Harbor.	Fairmont district via B. & O. to Lorain.	Kanawha district via K. & M. T. & O. C. to Toledo.	Kanawha district via C. & O. N. & W., H. V. to Toledo.	Thacker district via N. & W., Pa. Co. to Sandusky.	Elkhorn district via V. & E. C. & O. and H. & D. to Toledo.	New River district via C. & W., H. V. to Toledo.	Poconchos district via N. & W., Pa. Co. to Sandusky.
1. Name of assembling yard.....	Curtisville.		Hartel.	Dickinson.	Logan.	Williamson.	Jenkins.	Thurmond.	Ekman and Vivian.
2. Distance from assembling yard to lake port (miles).....	129.7	129.7	220.2	324.5	339	324	492.8	381	405.42
3. Freight rate per ton of 2,000 pounds.....	\$0.63	\$0.63	\$0.90	\$0.97	\$0.97	\$0.97	\$0.97	\$1.12	\$1.12
4. Number of carloads.....	352	352	1,413	908	672	883	255	655	1,032
5. Number of tons.....	14,907.16	14,907.16	70,631.63	37,958	33,313.70	39,257.30	12,751.2	32,024.20	77,358.90
6. Freight revenue.....	\$9,301.49	\$9,301.49	\$53,568.49	\$36,819.26	\$32,814.29	\$38,079.58	\$12,368.68	\$35,867.10	\$86,675.56
7. Total miles cars moved loaded.....	46,107.60	46,107.60	360,762.30	304,557	235,042	300,162	126,034.2	259,304	675,354
8. Total miles cars moved empty (assigned to lake cargo coal).....	2,918.10	2,918.10	(1)	292,410	230,216.9	300,162	78,290.9	228,117	678,354
9. Total miles cars moved loaded and empty.....	49,025.70	49,025.70	(1)	596,967	465,258.9	600,324	204,325.1	457,321	1,353,708
10. Total number of car-days in loaded movement.....	3,616	3,616	16,777	10,910	12,466	14,742	3,567	12,400	27,991
11. Total number of car-days in empty movement (assigned to lake cargo coal).....	(1)	(1)	(1)	5,521	3,263	3,666	1,077	3,315	8,284
12. Total number of car-days in loaded and empty movement.....	3,960	3,960	(1)	16,431	15,719	18,408	4,644	15,715	36,275
13. Number of cars reloaded at lake port.....	333	333	306	30	4	0	94	4	0
14. Number of cars forwarded from lake port empty.....	19	(1)	(1)	878	668	883	161	661	1,032
AVERAGES.									
15. Revenue per car.....	\$26.68	\$26.68	\$44.99	\$40.55	\$48.09	\$43.13	\$48.50	\$52.94	\$53.11
16. Revenue per car per mile for loaded movement (cents).....	20.37	20.37	17.62	12.09	13.75	12.69	9.81	13.84	12.78
17. Revenue per car per mile for loaded and empty movement (cents).....	19.16	19.16	(1)	6.17	6.95	6.35	6.05	7.26	6.39
18. Revenue per car per day for loaded movement.....	\$2.60	\$2.60	\$3.79	\$3.38	\$2.59	\$2.58	\$3.47	\$2.89	\$3.10
19. Revenue per car per day for loaded and empty movement.....	\$2.36	\$2.36	(1)	\$2.24	\$2.06	\$2.07	\$2.66	\$2.28	\$2.39
20. Miles per car for loaded movement (average haul).....	42.35	42.35	50.00	41.80	46.60	44.46	50.00	48.16	47.43
21. Miles per car for loaded movement (average haul).....	120.99	120.99	255.30	335.40	349.80	339.98	494.3	386.80	415.66
22. Miles per car for empty movement.....	8.29	8.29	(1)	322.00	342.60	339.93	307.0	343.00	415.66
No shipments reported.									

23.	Miles per car for loaded and empty movement.....	190.28	(1)	11.87	687.40	679.86	801.3	732.80	581.33
24.	Number of days per car for loaded movement.....	10.27		.80	12.00	16.70	13.90	18.00	17.16
24a.	Chargeable to shipper at mine.....	2.23			1.60	1.79	2.76	2.30	1.86
24b.	Chargeable to shipper at lake port.....	6.06		5.52	6.20	7.29	4.71	6.40	7.40
24c.	Chargeable to carriers.....	1.27		4.75	6.30	10.80	7.63	9.90	7.89
25.	Number of days per car for empty movement.....	1.06	(1)		6.00	4.90	4.22	5.00	5.07
26.	Number of days per car for loaded and empty movement.....	11.32			18.00	26.85	18.21	23.60	22.23
27.	Miles per car per day for loaded movement.....	12.75	(1)	21.53	27.90	20.36	33.33	20.90	24.23
28.	Miles per car per day for empty movement.....	7.89	(1)		53.00	81.88	72.69	63.80	81.89
28a.	Miles per car per day for loaded and empty movement.....	12.30	(1)		36.30	32.61	44.00	31.00	37.40

1 Complete information not available.

EXPLANATION OF THE METHODS EMPLOYED IN ARRIVING AT THE FIGURES SHOWN IN TABLE F, PAGES 206 TO 209.

Item No.	Explanation.	Item No.	Explanation.
1	As shown on carriers' returns on Form No. 1 of Special Report Series Circular No. 26.	15	Freight revenue, item 6, divided by the number of cars, item 4.
2	Do.	16	Freight revenue, item 6, divided by the loaded car-miles, item 7.
3	Do.	17	Freight revenue, item 6, divided by the total loaded and empty car-miles, item 9.
4	Form 1A of Special Report Series Circular No. 26.	18	Freight revenue, item 6, divided by the loaded car-days, item 10.
5	Actual number of cars for which the carriers furnished complete data as per Form 1A of Special Report Series Circular No. 26.	19	Freight revenue, item 6, divided by the total loaded and empty car-days, item 12.
6	Actual number of tons, as reported by carriers, contained in the cars shown opposite item 4.	20	Number of tons, item 5, divided by the number of carloads, item 4.
7	Product of the tons, item 5, by the freight rate, item 3.	21	Loaded car-miles, item 7, divided by the number of cars, item 4.
8	Actual distance moved by the cars shown opposite item 4 from the points of loading to the lake port.	22	Empty car-miles, item 8, divided by the number of cars, item 4.
9	Arbitrarily assigned on basis of information furnished for each separate route.	23	Total loaded and empty car-miles, item 9, divided by the number of cars, item 4.
10	Sum of loaded and empty mileage shown opposite items 7 and 8.	24	Loaded car-days, item 10, divided by the number of cars, item 4.
11	Actual number of days the cars shown opposite item 4 were in service, counting from the date they were placed on the mine track for loading to the date they were unloaded at the lake port.	24a	Days from date cars were placed on mine tracks for loading to date cars were loaded at the mines, divided by number of cars, item 4.
12	Arbitrarily assigned on basis of information furnished for each separate route.	24b	Days from date cars were placed (or constructively placed) for unloading at lake port to date of unloading, divided by number of cars, item 4.
13	Sum of loaded and empty car-days shown opposite items 10 and 11.	24c	Days from date cars were loaded at the mines to date of placement at lake port, divided by the number of cars, item 4.
14	Actual number of cars shown opposite item 4 that were reloaded at the same lake port to which they were consigned by the carrier handling the loaded cars into such port. Does not include cars reloaded at any other lake port, nor cars delivered empty to foreign lines at the lake port where unloaded. Includes all cars not reloaded at the lake port to which they were consigned by the carrier handling the loaded cars into such lake port.	25	Empty car-days, item 11, divided by number of cars, item 4.
		26	Total number loaded and empty car-days, item 12, divided by number of cars, item 4.
		27	Loaded car-miles, item 7, divided by loaded car-days, item 10.
		28	Empty car-miles, item 8, divided by empty car-days, item 11.
		28a	Total loaded and empty car-miles, item 9, divided by total loaded and empty car-days, item 12.

TABLE G.—Summary of information (as shown in Commission's Exhibit No. 4) with respect to the locomotives, trains, cars, etc., used in the transportation of lake cargo coal, furnished to the Interstate Commerce Commission by the respondent carriers on Form No. 2 of Special Report Series Circular No. 26, dated Sept. 25, 1916.

[See explanatory notes, p. 213.]

1	2	3	4	5	6	7	8	9	10
Item. (See note 1.)	Hooking district via H. V. Ry. to Toledo. (See note 2.)	Cambridge district via Pa. Co. to Cleveland. (See note 3.)	Ohio No. 8 district via W. & L. E. to Huron. (See note 3.)	Pittsburgh district via M. R. R. U. R. R. B. L. E. to Conneaut Harbor. (See note 3.)	Pittsburgh district via P. C. & St. L., Pa. Co. to Ashtabula Harbor. (See note 3.)	Pittsburgh district via P. R. R. P. L. west to Cleveland. (See note 3.)	Pittsburgh district via P. R. R. P. L. west to Cleveland. (See note 3.)	Pittsburgh district via P. R. R. P. L. west to Cleveland. (See note 3.)	Pittsburgh district via W. P. Ry. to Huron. (See note 3.)
1. Name of assembling yard.....	Nelsonville.	Cambridge.	Adena.	Miffin Junction.	Scully.	Pitcairn.	Shire Oaks.	Glassport.	Rook.
2. Distance from assembling yard to lake port (miles).....	185	143	139.1	157.4	130	154	164	142.33	183.9
3. Rate from district to lake port (per short ton).....	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
4. Number of mines served from the assembling yard.....	73	17	10	8	43	24	20	20	5
5. Number of mines shipping lake cargo coal served from the assembling yard.....	18	11	7	6	34	12	16	17	5
6. Maximum distance from the assembling yard to any mine (miles).....	19.50	18	21.03	38.37	32	30	25	29.07	19.22
7. Minimum distance from the assembling yard to any mine (miles).....	.75	1	1.56	13.73	4	2	1	4	7.82
8. Maximum distance from the assembling yard to any mine shipping lake cargo coal (miles).....	15.75	18	21.03	38.37	30	24	20	29.07	19.22
9. Minimum distance from the assembling yard to any mine shipping lake cargo coal (miles).....	.75	1	1.56	13.73	4	2	1	4	7.82
10. Straight average distance from all mines to the assembling yard (miles).....	9.93	6.88	7.69	26.69	17.67	15.4	12	18.45	11.99
11. Weighted average distance from all mines to the assembling yard (miles).....	Not shown.	Not shown.	8.80	Not shown.	Not shown.	11.6	14	± 18.59	Not shown.
12. Straight average distance from mines shipping lake cargo coal to the assembling yard (miles).....	8.67	7.64	7.75	27.33	18.06	11.6	10.8	18.44	11.99
13. Weighted average distance from mines shipping lake cargo coal to the assembling yard (miles).....	± 9.20	Not shown.	8.74	Not shown.	Not shown.	11.3	11.5	± 20.98	Not shown.
14. Average number of loaded cars in a typical coal train (trains hauling empty cars not included).....	64.3	37.5	45.4	54.42	49.31	56.8	47.9	85.2	36.9
15. Number of locomotives-miles per train from assembling yard to lake port.....	222	182	164.9	274.25	154	164	171	173.83	183.9
16. Average gross weight of lake cargo coal trains (cars and contents) (short tons).....	4,117	2,736	3,110	3,158	3,606	3,937	3,418	5,890	2,501

17. Average net weight of lake cargo coal trains (contents of cars) (short tons).....	2,894.5	1,943	2,249	2,171	2,435	2,765	2,481	3,081	1,799
18. Average number of tons per car (average load).....	45	41.9	46.49	50.58	49.4	48.7	51.6	48.1	47.89
19. Average revenue per ton per car (average load).....	\$2,170.87	\$1,487.05	\$1,685.75	\$1,693.08	\$1,808.91	\$2,155.40	\$1,935.10	\$3,095.15	\$1,379.45
20. Average revenue per train-mile.....	\$11.75	\$10.19	\$12.19	\$10.76	\$14.61	\$14.00	\$11.80	\$21.54	\$7.50
21. Average cost of locomotives used in hauling lake cargo coal trains.....	\$22,878.04	\$21,079.07	\$19,248.13	\$19,316.43	\$23,098.24	\$23,658.49	\$21,974.00	\$25,639.07	\$17,765.84
22. Average cost per car of cars used in lake cargo coal train.....	\$983.89	\$1,135.41	\$1,085.00	\$1,053.50	\$1,069.98	\$1,145.84	\$1,129.68	\$1,042.63	\$1,040.00
23. Average cost of the locomotive and cars used in a typical lake cargo coal train.....	\$82,945.84	\$83,620.61	\$83,507.38	\$76,647.90	\$75,858.95	\$88,765.12	\$76,101.48	\$114,440.00	\$59,173.04
24. Average tractive power per locomotive-mile of locomotives used in hauling lake cargo coal trains (pounds).....	46,380	46,487	46,630	47,708	51,500	54,218	49,550	49,065	53,207
25. Locomotive tractive power miles from the assembling yard to the lake port.....	10,740,380	8,815,484	8,019,087	13,082,578	7,981,000	8,891,770	8,472,946	8,529,033	9,784,790
26. Locomotive tractive power miles per ton of coal hauled.....	3,711	4,537	3,565	6,026	3,258	3,216	3,415	2,170	5,533
27. Locomotive tractive power miles per ton-mile.....	20.05	31.78	26.77	38.39	25.06	20.83	20.82	15.25	30.08
28. Average tonnage rating per locomotive-mile of a locomotive of 75,000 pounds tractive power.....	5,663	3,100	4,709	42,848	4,143	4,949	4,848	5,731	4,308

1 For September, 1916.

2 See note 2.

3 Does not include the Union R. R.

TABLE G.—Summary of information (as shown in Commission's Exhibit No. 4) with respect to the locomotives, trains, cars, etc., used in the transportation of lake cargo coal, furnished to the Interstate Commerce Commission by the respondent carriers on Form No. 2 of Special Report Series Circular No. 26, dated Sept. 25, 1916—Continued.

	11	12	13	14	15	16	17	18	19
	Connellsville district to Cleveland and Fairport Harbor.	Freeport district via B. & L. E. to Conneaut Harbor.	Fairmont district via B. & O. to Lorain. (See note 6.)	Kanawha district via K. & M., T. & O. C. to Toledo.	Kanawha district via C. & O. N. & W. to Toledo.	Thacker district via N. & W. Pa. Co. to Sandusky.	Elkhorn district via S. V. & E., C. & O. N. & W. to Toledo.	New River district via C. & O. N. & W. H. V. to Toledo.	Pocahontas district via N. & W. Pa. Co. to Sandusky.
1. Name of assembling yard.....	(Curtisville.		Hartzel.	Dickinson.	Logan.	Williamson.	Jenkins.	Thurmond.	Eckman.
2. Distance from assembling yard to lake port (miles).....	129.7		220.2	324.5	339	323	492.8	381	405
3. Rate from district to lake port (per short ton).....	\$0.63		\$0.90	\$0.97	\$0.97	\$0.97	\$0.97	\$1.12	\$1.12
4. Number of mines served from the assembling yard.....	5		94	22	70	50	7	43	63
5. Number of mines shipping lake cargo coal served from the assembling yard.....	4		52	20	149	28	7	120	55
6. Maximum distance from the assembling yard to any mine (miles).....	3.5		39.6	17	24.5	41	2.7	11.8	33
7. Minimum distance from the assembling yard to any mine (miles).....	.2		8.1	1	.6	1	.5	.9	1
8. Maximum distance from the assembling yard to any mine shipping lake cargo coal (miles).....	3.5		38.8	17	23.6	41	2.7	11.8	33
9. Minimum distance from the assembling yard to mines shipping lake cargo coal (miles).....	.2		8.1	1	.6	1	.5	.9	1
10. Straight average distance from all mines to the assembling yard (miles).....	1.3		24.9	11	9.9	20.5	1.53	6.8	16.5
11. Weighted average distance from all mines to the assembling yard (miles).....	Not shown.		Not shown.	±15	Not shown.	Not shown.	±1.5	Not shown.	Not shown.
12. Straight average distance from mines shipping lake cargo coal to the assembling yard (miles).....	1.4		23.4	11.3	9.3	20.5	1.53	7.6	16.5
13. Weighted average distance from mines shipping lake cargo coal to the assembling yard (miles).....	Not shown.		Not shown.	±15	Not shown.	Not shown.	±1.5	Not shown.	Not shown.
14. Average number of loaded cars in a typical coal train (trains hauling empty cars not included).....	54.3		56.3	52.2	69.1	66.9	61.3	70.2	70.6
15. Number of locomotives miles per train from assembling yard to lake port.....	211		280	424	367	326	563.6	408.8	408
16. Average gross weight of lake cargo coal trains (cars and contents) (short tons).....	3,204		3,940	3,477	4,534	4,517	4,464	4,614	4,767
17. Average net weight of lake cargo coal trains (contents of cars) (short tons).....	2,220		2,760	2,393	3,286	3,186	3,148	3,337	3,362
No shipments reported.									

18. Average number of tons per car (average load).....	46.26	47.6	47.6	51.35	47.6	47.6
19. Average revenue per train.....	\$1,523.80	\$2,494.00	\$2,157.43	\$2,063.55	\$2,737.44	\$2,794.43
20. Average revenue per train-mile.....	\$10.76	\$11.79	\$9.40	\$8.07	\$9.51	\$9.36
21. Average cost of locomotives used in hauling lake cargo coal trains.....	\$19,389.74	\$21,514.28	\$27,021.02	\$28,828.46	\$28,524.46	\$29,478.88
22. Average cost per car of cars used in lake cargo coal traffic.....	\$1,035.80	\$900.00	\$1,176.00	\$900.00	\$1,176.00	\$977.61
23. Average cost of the locomotive and cars used in a typical lake cargo coal train.....	\$76,573.77	\$72,164.28	\$106,852.02	\$105,405.79	\$111,081.04	\$99,072.49
24. Average tractive power per locomotive-mile of locomotives used in hauling lake cargo coal trains (pounds).....	46,537	47,028	63,599	56,517	66,859	67,407
25. Locomotive tractive power miles from the assembling yard to the lake port.....	10,450,240	13,324,077	28,450,772	21,516,145	32,868,198	27,357,145
26. Locomotive tractive power miles per ton of coal hauled.....	4.707	4.931	7.137	6.752	8.166	8.180
27. Locomotive tractive power miles per ton-mile of a locomotive of 75,000 pounds tractive power.....	24.29	24.06	21.05	21.92	21.43	21.29
	2,848	6,227	4,520	5,453	4,839	5,079

¹ Via Kenova.

² Regarding the weighted average distances in the Kanawha district on the K. & M. Ry., the carrier states in returns filed: "In preparing figures for the Commission in I. & S. 26, we found 15 miles to be the average haul. Since that time the large Cammellon Coal & Coke Co. tonnage has been developed, so that the haul is now probably a little over 15 miles."
³ Period not given.

EXPLANATORY NOTES.

NOTE 1.—The answers to questions 2 to 12, inclusive, contained in Special Report Series Circular No. 26, are given in full opposite items 1 and 4 to 13, inclusive. The distances and rates shown opposite items 2 and 3, respectively, were obtained from Form 1 of S. R. S. Circular No. 26. The figures opposite the remaining items (14 to 28, inclusive) were obtained as follows:
 Item 14. From answer to question 23. Formula: Total car-miles÷distance assembling yard to lake port.
 Item 15. From answer to question 23, being the sum of the locomotive-miles as shown or operating divisions.
 Item 16. From answer to question 23. Formula: Gross ton-miles ÷ distance assembling yard to lake port.
 Item 17. From answer to question 23. Formula: Net ton-miles÷distance assembling yard to lake port.
 Item 18. Net train tonnage (item 17) ÷ number of cars in train (item 14).
 Item 19. Net train tonnage (item 17) × freight rate (item 3).
 Item 20. Revenue per train (item 19) ÷ distance assembling yard to lake port (item 2).
 Item 21. From answer to question 23. Formula: Sum of the product of the cost of locomotives multiplied by the locomotive-miles for each operating division divided by the total locomotive-miles (item 15).
 Item 22. From answer to question 25.
 Item 23. Cost per car (item 22) × number of cars per train (item 14) plus cost of locomotive (item 21).
 Items 24–25. From answers to questions 26 revised.
 Item 26. Total locomotive tractive power miles (item 25) ÷ net train tonnage (item 17).

Item 27. Locomotive tractive power miles per ton of coal hauled (item 26) ÷ distance assembling yard to lake port (item 2).
 Item 28. From answer to question 27 revised.

NOTE 2.—The weighted average distance of 9.2 miles as shown in column 2, item 13, is the average for the 461 cars shown in Table F, page 210. The average gross weight and net weight of trains, column 2, items 16 and 17, also the average cost of locomotives, item 21, are for the movement from Nelsonville to Walbridge only, distance 180 miles.

NOTE 3.—After the returns of the Wheeling & Lake Erie were submitted corrections were made by letter, and in certain cases details are lacking. The figures appearing in column 4 are those furnished by the carrier. The distance of 139.1 miles (item 2) is from the center of the assembling yard to the car dumper at the lake port. In making certain of the computations a distance of 138.3 miles was used, this being the time-table mileage. The period for which weighted average distances are shown (items 11 and 13) was not stated.

NOTE 4.—The locomotive-miles shown opposite item 15, column 9, of this exhibit do not include the mileage of locomotives to and from the roundhouse.

NOTE 5.—The total and average locomotive tractive power miles shown opposite items 23 and 24, column 10, of this exhibit include only the locomotives of the 2400 class and 55,900 pounds tractive power between Pittsburgh Junction and Huron.

NOTE 6.—On Form No. 1 of Special Report Series Circular No. 26, for the route from the Fairmont district to Lorain via the Baltimore & Ohio R. R., the distance from the assembling yard to the lake port is shown as 230.2 miles. In answer to question 23 the distance from the assembling point to terminal yard is shown as 228 miles. In some cases one and in other cases the other of these distances was used in arriving at the figures shown in column 13.

TABLE H. Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment by the Baltimore & Ohio R. R., Pennsylvania lines west of Pittsburgh, New York Central R. R. west of Buffalo, Norfolk & Western Ry., Chesapeake & Ohio Ry., Pittsburgh & Lake Erie R. R., during the years 1912 to 1916, inclusive, and the estimated prices for 1917.

[The 1917 prices shown in Table H represent in some cases the contract price for the entire year, in others the last price paid or the latest quotation, and in a few instances an estimated price has been used based upon the testimony.]

BITUMINOUS COAL, PER TON.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$0.996	\$1.17	\$1.304	\$1.02	\$0.908	\$1.228
1913.....	1.063	1.25	1.195	1.10	1.030	1.295
1914.....	1.012	1.24	1.189	1.11	1.023	1.305
1915.....	.983	1.21	1.174	1.06	.978	1.240
4-year average.....	1.016	1.22	1.219	1.07	.998	1.268
1916.....	1.082	1.40	1.245	1.14	1.056	1.438
1917.....	1.361	1.80	1.946	2.00	1.587	2.750

FREIGHT LOCOMOTIVES, PER TON OF TRACTIVE POWER.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$837.76	\$945.13	\$1,033.60	\$993.94	\$866.58	.....
1913.....	1,054.60	915.78	988.10	976.63	875.23	\$884.92
1914.....	827.16	.....	.....	784.42	848.01	.....
1915.....	.....	756.68	.....	.....	825.03	.....
4-year average.....	966.23	950.14	1,010.63	885.00	848.40	.....
1916.....	944.14	945.08	1,238.21	917.71	1,238.15	\$1,046.81
1917.....	1,203.36	1,162.01	1,770.42	1,171.90	1,417.62	\$1,476.88

COAL CARS, PER TON CAPACITY.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$17.68	\$20.82	.....	\$16.66	.....	.....
1913.....	20.70	22.21	.....	18.86	\$20.72	\$20.31
1914.....	19.75	24.11	.....	17.82	14.65	.....
1915.....	15.81	15.91	\$19.41	.....	.....	.....
4-year average.....	18.49	20.55	19.41	17.64	17.86	20.31
1916.....	18.80	18.33	26.84	18.26	24.62	26.35
1917.....	32.02	19.78	.....	31.80	30.30	.....

COAL CARS, EACH.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$884	\$1,041	.....	\$958	.....	.....
1913.....	1,035	1,255	.....	{ 1,123 1,056 }	\$1,605	\$1,117
1914.....	988	1,206	.....	{ 1,265 }	926	.....
1915.....	830	1,114	\$1,174	.....	.....	1,584
4-year average.....	981	1,138	1,174	{ 1,123 1,146 }	1,194	1,565
1916.....	1,031	1,283	{ 1,643 1,972 }	1,658
1917.....	1,750	1,885	1,476	{ 1,792 }	1,968

¹ Cost to build.

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TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

BOX CARS, PER TON OF CAPACITY.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$22.69	\$19.05	.....	.....	.....	\$19.42
1913.....	.....	26.21	.....	\$28.87	.....	.....
1914.....	.....	.....	.....	.....	.....	.....
1915.....	19.75	23.68	\$23.70	.....	.....	.....
4-year average.....	21.85	24.43	23.70	28.87	.....	19.42
1916.....	31.45	23.12	33.21	.....	.....	26.53
1917.....	31.45	36.26	.....	43.94	.....	.....

BOX CARS, EACH.

1912.....	\$908	\$953	.....	.....	.....	.....
1913.....	.....	1,311	.....	\$1,155	.....	\$777
1914.....	.....	.....	.....	.....	.....	.....
1915.....	790	1,184	\$1,191	.....	.....	.....
4-year average.....	874	1,222	1,191	1,155	.....	777
1916.....	1,253	1,156	.....	.....	.....	1,061
1917.....	1,268	1,813	1,461	1,758	.....	.....

STEEL RAILS, PER GROSS TON.

1912.....	\$29.87	\$30.55	\$29.95	\$30.33	\$29.20	\$30.08
1913.....	29.98	29.92	30.04	30.02	29.24	30.02
1914.....	29.53	30.75	29.95	30.79	29.55	30.02
1915.....	29.53	33.89	29.94	30.72	29.61	30.24
4-year average.....	29.84	31.32	29.98	30.43	29.44	30.05
1916.....	30.05	34.30	29.94	30.72	30.72	30.24
1917.....	39.90	42.30	40.00	30.78	40.00	40.00

WHITE-OAK TIES, NOT TREATED, EACH.

1912.....	\$0.617	\$0.767	\$0.808	\$0.482	\$0.546	\$0.787
1913.....	.708	.792	.793	.535	.609	.730
1914.....	.605	.537	.759	.549	.606	.716
1915.....	.612	.533	.682	.520	.572	.777
4-year average.....	.659	.810	.760	.526	.583	.737
1916.....	.685	.724	.721	.552	.591	.920
1917.....	.800	.750	.820	.649	.710	1.030

OTHER TIES, TREATED, EACH.

1912.....	\$0.710	\$0.730	\$0.901	.....	.....	\$0.714
1913.....	.844	.642	.995	.....	.....	.778
1914.....	.787	.845	1.106	.....	.....	.847
1915.....	.719	.697	1.060	.....	.....	.851
4-year average.....	.764	.751	1.004	.....	.....	.818
1916.....	.740	.746	1.022	.....	\$0.753	.850
1917.....	.904	.6975	1.100	.....	.800	1.040

¹ January.

TABLE H.—*Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.*

WHITE OAK LUMBER, PER 1,000 FEET.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$20.79	\$26.26	\$26.70	\$17.03	\$19.48	\$22.12
1913.....	21.78	25.00	27.41	17.78	17.99	22.82
1914.....	21.32	25.03	25.01	18.93	19.74	20.95
1915.....	20.52	24.75	24.46	18.06	18.84	18.39
4-year average.....	21.18	25.34	25.50	17.95	19.00	21.46
1916.....	20.96	25.30	25.90	18.27	20.44	20.88
1917.....	25.00	30.00	29.59	20.00	24.69	25.90

YELLOW PINE LUMBER, PER 1,000 FEET.

1912.....	\$27.90	\$29.73	\$22.90	\$18.49	\$22.41	\$19.09
1913.....	28.49	32.27	21.30	20.34	23.47	19.71
1914.....	22.31	25.23	19.09	17.06	23.10	14.40
1915.....	22.53	25.01	17.84	15.56	22.24	14.66
4-year average.....	25.93	27.64	19.78	18.18	23.36	17.76
1916.....	26.64	28.21	22.36	18.92	25.25	19.80
1917.....	28.50	32.00	29.00	18.34	26.50	25.00

STONE BALLAST, PER CUBIC YARD.

1912.....	\$0.5562	.....	\$0.493	\$0.567	\$0.75
1913.....	.5858	.....	.524	.647	.75
1914.....	.5584	.....	.802	.648	.75
1915.....	.5700	.....	.506	.628	.75
4-year average.....	.5673	.....	.507	.630	.75
1916.....	.5656	.....	.565	.629	.7575
1917.....	.5925	.....	.630	.624	.....

PORTLAND CEMENT, PER BARREL.

1912.....	\$1.16	\$1.11	\$0.915	\$1.271	\$1.205	\$1.15
1913.....	1.35	1.38	1.088	1.447	1.313	1.31
1914.....	1.33	1.38	1.025	1.365	1.345	1.32
1915.....	1.09	1.24	1.020	1.175	1.320	1.29
4-year average.....	1.19	1.27	1.072	1.339	1.293	1.27
1916.....	1.37	1.63	1.19	1.394	1.504	1.42
1917.....	1.85	1.98	1.75	1.542	1.650	1.60

BRIDGES, FABRICATED, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	2.41	2.38	2.25	3.72	2.47	2.96
1913.....	3.19	2.50	2.74	3.50	2.57	2.92
1914.....	2.85	2.52	2.15	3.33	2.14	2.46
1915.....	2.04	2.30	2.20	3.19	2.06	2.68
4-year average.....	2.66	2.47	2.27	3.55	2.30	2.98
1916.....	3.07	3.02	4.06	.....	3.76	.....
1917.....	5.63	5.00	5.30	.....	5.35	6.50

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

AXLES, CAR, TENDER, AND ENGINE TRUCK, PER POUND.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.67	1.54	1.55	1.55	1.70	1.46
1913.....	1.58	1.96	1.65	1.87	1.98	1.67
1914.....	1.37	1.56	1.66	1.66	1.69	1.41
1915.....	1.47	1.54	1.60	1.65	1.79	1.43
4-year average.....	1.58	1.67	1.60	1.71	1.78	1.50
1916.....	2.24	1.99	2.61	2.15	3.19	1.90
1917.....	4.70	4.45	4.70	4.23	4.64	4.25

AXLES, DRIVING, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	2.38	2.38	2.54	2.26	2.87	2.36
1913.....	2.51	3.27	2.76	2.26	2.89	2.45
1914.....	2.36	2.75	2.77	2.49	2.36	2.46
1915.....	2.38	2.87	2.73	2.26	2.55	2.46
4-year average.....	2.38	3.09	2.71	2.29	2.59	2.42
1916.....	2.92	3.44	3.24	2.84	3.54	2.80
1917.....	6.75	10.50	5.50	4.95	6.69	5.80

STEEL WHEELS, 33-INCH, EACH.

	\$14.07	\$15.14	\$18.86	\$13.61	\$14.62	\$18.03
1912.....	14.88	14.22	18.69	14.08	14.27	20.07
1913.....	17.47	16.98	21.59	14.23	14.86	20.06
1914.....	17.77	18.78	20.64	15.19	15.50	19.65
4-year average.....	16.21	15.75	19.84	13.96	14.99	19.60
1916.....	20.72	19.56	23.52	16.57	18.33	20.30
1917.....	32.38	23.75	35.50	23.08	30.00	33.50

CAST-IRON WHEELS, PER 100 POUNDS.

	\$0.96	\$1.047	Cent.	\$5.03	\$1.150	\$1.24
1912.....	1.00	1.072	1.20	\$5.65	1.150	1.21
1913.....	.90	1.062	1.20	\$4.72	1.150	1.22
1914.....	.85	1.078	1.20	\$4.72	1.007	1.26
4-year average.....	.92	1.065	1.20	\$5.04	1.103	1.28
1916.....	1.00	1.061	1.22	\$5.66	1.008	1.28
1917.....	1.38	1.120	1.30	\$7.00	1.055	1.49

SPRINGS, ELLIPTIC, LOCOMOTIVE, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	3.57	3.82	3.60	3.92	3.30	3.76
1913.....	3.40	3.19	3.60	3.30	3.49	3.56
1914.....	2.51	2.73	2.29	2.80	3.01	2.47
1915.....	2.92	3.75	3.19	3.58	3.66	3.28
4-year average.....	3.28	3.40	2.94	3.59	3.31	3.21
1916.....	3.70	5.32	3.79	3.89	4.57	3.80
1917.....	5.90	5.75	5.90	6.00	6.20	5.90

¹ Manufacturing cost, each.

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

SPRINGS, COIL, PER POUND.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.88	3.14	1.95	2.21	1.81	2.02
1913.....	1.89	2.14	1.85	2.08	1.97	1.97
1914.....	1.50	2.08	1.58	1.89	1.81	1.50
1915.....	1.59	1.55	1.64	1.84	1.98	1.64
4-year average.....	1.75	2.39	1.76	2.05	1.90	1.75
1916.....	1.80	2.18	1.75	1.99	2.82	1.87
1917.....	3.00	7.00	3.90	4.00	4.20	3.90

TIRES, LOCOMOTIVE, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	2.98	3.12	3.29	3.09	3.96	2.77
1913.....	3.13	3.28	3.32	3.38	4.00	3.32
1914.....	2.45	3.28	3.13	3.28	4.06	3.22
1915.....	2.99	3.39	3.13	3.34	3.77	3.23
4-year average.....	2.96	3.24	3.25	3.25	3.96	3.16
1916.....	3.75	3.43	3.71	3.76	3.99	3.72
1917.....	4.75	6.00	6.50	4.88	6.00	6.00

TUBES, LOCOMOTIVE BOILER, PER FOOT.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	9.62	9.50	9.90	9.45	8.89	8.26
1913.....	9.44	11.40	8.31	11.29	9.89	8.75
1914.....	8.92	7.30	9.00	11.13	9.44	8.52
1915.....	9.42	7.90	8.20	9.66	8.79	7.64
4-year average.....	9.45	8.70	8.70	10.25	9.27	8.38
1916.....	13.10	10.60	9.60	13.91	12.00	8.35
1917.....	22.22	18.63	19.72	21.11	28.00	19.72

BOLSTERS, CAST STEEL, EACH.

1912.....	\$17.28	\$44.82	\$16.08	\$20.51	\$26.38	\$18.12
1913.....	20.74	43.24	18.96	34.07	27.54	19.06
1914.....	18.68	45.79	16.66	72.85	28.33	19.71
1915.....	17.86	44.75	15.95	21.67	28.46	18.69
4-year average.....	18.09	44.78	16.69	30.59	27.84	18.69
1916.....	25.86	40.36	18.25	95.61	30.31	23.82
1917.....	53.46	66.15	48.90	50.00	60.00	48.90

BRAKE BEAMS, FREIGHT, EACH.

1912.....	\$2.32	\$3.90	\$2.30	\$2.00	\$2.29	\$2.22
1913.....	2.45	3.58	2.52	2.25	2.46	2.30
1914.....	2.12	2.88	2.68	1.96	2.09	2.22
1915.....	2.14	2.94	2.03	2.02	2.19	2.16
4-year average.....	2.27	3.48	2.24	2.12	2.24	2.38
1916.....	2.48	2.70	2.73	2.07	2.50	2.62
1917.....	4.00	3.60	3.82	3.47	4.25	3.82

TABLE H.—*Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.*

COUPLERS, FREIGHT-CAR, PER PAIR.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$14.64	\$15.53	\$16.14	\$14.99	\$15.43	\$15.34
1913.....	15.30	16.72	15.41	15.83	16.47	15.56
1914.....	16.82	16.46	17.25	17.57	16.30	16.90
1915.....	16.86	16.60	17.35	16.55	16.01	16.48
4-year average.....	15.74	16.15	16.45	15.98	15.97	15.94
1916.....	18.48	18.64	17.93	17.85	17.52	16.58
1917.....	28.13	33.50	26.50	28.95	32.50	26.50

TRUCK SIDE FRAMES (FREIGHT CARS), EACH.

1912.....	\$13.81	.....	\$14.80	\$11.94	\$26.42	\$14.15
1913.....	20.84	.....	16.25	15.56	31.47	12.97
1914.....	18.58	.....	16.58	13.96	30.48	14.21
1915.....	19.37	.....	15.69	12.68	28.83	14.53
4-year average.....	19.15	.....	15.57	13.90	29.28	14.14
1916.....	16.15	.....	16.55	27.78	25.42	13.44
1917.....	31.25	.....	22.69	30.00	45.00	35.86

BAR IRON, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.31	1.32	1.35	1.17	1.66	1.45
1913.....	1.58	1.72	1.33	1.59	1.85	1.66
1914.....	1.16	1.17	1.20	1.32	.....	1.45
1915.....	1.80	1.38	1.22	1.23	.....	1.45
4-year average.....	1.44	1.42	1.36	1.43	1.79	1.56
1916.....	2.39	1.87	1.78	2.00	2.57	1.84
1917.....	2.90	3.05	2.45	2.65	3.60	3.00

STEEL PLATES $\frac{1}{2}$ INCH AND OVER, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.19	1.18	1.22	1.25	1.31	1.18
1913.....	1.43	1.48	1.44	1.48	1.41	1.43
1914.....	1.13	1.21	1.24	1.29	1.22	1.17
1915.....	1.18	1.32	1.21	1.25	1.27	1.20
4-year average.....	1.27	1.36	1.25	1.39	1.30	1.29
1916.....	1.77	1.80	1.97	1.74	1.87	1.66
1917.....	4.50	4.78	4.50	4.32	4.80	4.50

STEEL PLATES, BOILER AND FIRE BOX, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.58	1.59	1.64	1.67	1.85	2.59
1913.....	1.75	1.77	2.07	1.81	1.98	2.63
1914.....	1.49	1.47	1.97	1.51	1.67	2.61
1915.....	1.48	1.48	1.93	1.50	1.64	2.67
4-year average.....	1.59	1.61	1.95	1.67	1.85	2.67
1916.....	1.70	1.86	3.09	1.75	2.48	2.67
1917.....	6.43	3.58	4.68	4.40	4.86	4.68

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

STEEL BARS, PER POUND.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.20	1.55	1.38	1.16	1.16	1.15
1913.....	1.38	1.71	1.41	1.42	1.33	1.38
1914.....	1.15	1.32	1.28	1.18	1.18	1.23
1915.....	1.19	1.44	1.26	1.20	1.23	1.22
4-year average.....	1.25	1.55	1.29	1.28	1.24	1.26
1916.....	1.41	2.10	1.93	1.63	1.46	1.62
1917.....	3.35	2.70	3.00	2.76	3.35	3.00

CASTINGS (GRAY IRON), PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	1.41	1.99	1.31	1.12	1.81	1.80
1913.....	1.62	1.91	1.35	1.12	1.96	1.95
1914.....	1.50	1.85	1.31	1.07	1.96	1.80
1915.....	1.44	1.89	1.30	1.11	1.86	1.74
4-year average.....	1.49	1.91	1.32	1.11	1.90	1.83
1916.....	1.62	2.16	1.62	1.28	1.99	2.17
1917.....	1.76	2.37	1.79	1.48	2.37	3.25

CASTINGS (MALLEABLE), PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	2.67	3.20	2.97	2.66	3.34	3.16
1913.....	3.11	3.40	3.71	3.36	4.00	3.39
1914.....	3.53	3.40	3.46	3.12	4.17	3.40
1915.....	3.39	3.28	3.20	2.97	3.46	3.35
4-year average.....	3.16	3.29	3.38	3.03	3.74	3.33
1916.....	3.40	3.99	3.63	3.64	3.48	3.30
1917.....	4.75	6.50	7.33	5.10	7.25	7.33

CASTINGS (STEEL), PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	2.97	4.18	3.25	3.13	3.94	3.89
1913.....	3.36	4.44	3.62	3.19	4.07	3.92
1914.....	3.35	3.61	3.66	3.24	3.75	3.87
1915.....	3.25	3.48	3.90	3.36	3.38	3.67
4-year average.....	3.18	3.96	3.66	3.21	3.74	3.61
1916.....	3.91	3.51	4.69	3.72	3.98	4.80
1917.....	4.34	6.76	9.50	8.00	5.65	9.50

PIG IRON, NO. 1 AND NO. 2, PER GROSS TON.

1912.....	\$14.37	.....	\$12.77	\$13.14	.....
1913.....	16.06	.....	15.44	14.30	.....
1914.....	12.75	.....	13.14	12.55	.....
1915.....	13.09	.....	13.30	12.59	.....
4-year average.....	14.16	.....	13.49	13.13	.....
1916.....	17.67	.....	16.56	15.67	.....
1917.....	36.25	.....	40.00	22.56	.....

¹Cost to manufacture.

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

CAST-IRON PIPE, PER NET TON.

	B. & O.	Pa. Mnes.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$20.76	\$21.72	\$21.86	\$21.00	\$22.86	\$21.00
1913.....	23.15	23.18	22.21	22.59	23.31	24.00
1914.....	23.78	21.34	23.69	19.91	21.10	22.60
1915.....	22.55	21.47	22.47	19.99	23.60	23.20
4-year average.....	21.58	22.16	22.41	20.79	22.68	22.37
1916.....	26.52	33.23	26.43	26.68	30.00	26.80
1917.....	44.00	43.75	44.75	38.00	44.00	41.66

TRACK BOLTS, ORDINARY, PER 100 POUNDS.

1912.....	\$1.88	\$2.03	\$1.78	\$1.81	\$1.77	\$1.93
1913.....	2.40	2.35	2.24	2.14	2.36	2.19
1914.....	1.75	1.87	1.84	1.84	2.00	1.81
1915.....	1.75	1.84	1.71	1.85	1.92	1.94
4-year average.....	2.14	2.06	1.89	1.88	1.98	1.98
1916.....	2.00	3.08	2.11	2.13	2.59	4.05
1917.....	4.50	5.00	4.50	4.25	5.00	4.40

TRACK BOLTS, HEAT TREATED, PER 100 POUNDS.

1912.....	.....	\$5.10	.....	.....	.....	.....
1913.....	.....	4.04	.....	.....	.....	.....
1914.....	\$3.76	2.64	.....	.....	.....	.....
1915.....	3.02	3.04	.....	\$2.35	.....	.....
4-year average.....	3.08	2.87	.....	.....	.....	.....
1916.....	3.41	5.11	.....	.....	.....	.....
1917.....	7.50	8.00	.....	6.50	.....	.....

TRACK SPIKES, PER 100 POUNDS.

1912.....	\$1.40	\$1.51	\$1.49	\$1.47	\$1.49	\$1.33
1913.....	1.83	1.80	1.40	1.79	1.80	1.56
1914.....	1.85	1.28	1.66	1.43	1.56	1.35
1915.....	1.38	1.43	1.49	1.40	1.49	1.38
4-year average.....	1.53	1.53	1.48	1.54	1.56	1.39
1916.....	1.76	2.17	1.56	1.88	2.27	1.87
1917.....	2.75	3.65	2.55	3.50	3.65	3.50

ANGLE BARS, PER 100 POUNDS.

1912.....	\$1.61	\$1.63	\$1.37	\$1.32	\$1.91	\$1.90
1913.....	1.68	1.64	1.77	1.51	1.87	1.90
1914.....	1.69	1.80	1.42	1.59	1.84	.....
1915.....	1.79	1.80	1.43	1.62	1.81	1.88
4-year average.....	1.66	1.70	1.49	1.55	1.84	1.89
1916.....	1.87	1.81	2.08	2.25	2.26	1.94
1917.....	3.00	3.00	3.00	2.70	3.00	2.65

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

TIE PLATES, PER NET TON.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....	\$26.09	\$32.73	\$27.00	\$25.89	\$31.02	\$27.60
1913.....	32.26	32.49	32.44	29.58	34.89	32.00
1914.....	24.70	26.66	26.56	26.45	30.04	26.40
1915.....	24.70	26.44	24.04	26.05	30.98	26.40
4-year average.....	27.48	29.97	27.74	26.83	31.33	27.31
1916.....	31.13	36.01	31.80	26.87	45.82	29.80
1917.....	47.00	65.00	60.00	53.77	60.00	50.00

TRACK JOINTS (PATENTED), PER PAIR.

1912.....	\$1.43		\$2.68	\$1.66	\$1.28	.....
1913.....	1.81	\$3.76	3.10	1.66	1.35	.....
1914.....	1.63		3.02	1.71	1.27	.....
1915.....	1.65	\$3.74	3.21	1.69	1.51	.....
4-year average.....	1.65	\$3.76	3.04	1.68	1.37	.....
1916.....	1.70	\$4.16	2.98	1.70	1.81	.....
1917.....	2.77	\$5.35	5.30	2.47	2.80	.....

INGOT COPPER, PER POUND.

1912.....	\$0.1599	\$0.1634	\$0.1580	\$0.1693	\$0.1705	.....
1913.....	.1581	.1519	.1600	.1624	.1677	.....
1914.....	.1222	.1318	.1320	.1319	.1459	.....
1915.....	.1667	.1669	.1780	.1716	.1819	.....
4-year average.....	.1527	.1529	.1590	.1609	.1664	.....
1916.....	.2457	.2546	.2730	.2603	.2955	.....
1917.....	.3260	.3350	.3550	.3433	.3563	.....

PIG LEAD, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	4.18	4.44	4.68	4.36	4.65	4.85
1913.....	4.32	4.33	4.61	4.45	4.82	4.68
1914.....	3.75	3.78	4.10	4.00	4.09	4.06
1915.....	4.44	4.69	5.09	4.39	5.12	4.39
4-year average.....	4.18	4.32	4.59	4.38	4.68	4.61
1916.....	6.49	6.90	7.13	5.13	6.69	7.26
1917.....	10.00	9.75	10.00	7.95	9.00	10.30

ANTIMONY, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	6.81	7.75	8.21	.....	8.37	.....
1913.....	7.21	9.57	8.90	.....	8.27	.....
1914.....	7.90	9.81	13.40	.....	8.66	.....
1915.....	26.83	26.62	30.70	.....	33.65	.....
4-year average.....	10.60	11.95	9.20	18.84
1916.....	18.00	38.06	11.80	23.81
1917.....	34.00	29.75	35.00	35.00

¹ Four pieces.

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TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

BRASS OR BRONZE COMPOSITION METAL, PER POUND.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
1912.....		\$0. 1520	\$0. 1860	\$0. 1567	\$0. 1642	
1913.....		. 1586		. 1657	. 1650	
1914.....		. 1254	. 1488	. 1378	. 1412	
1915.....		\$0. 1699	. 1304	. 1564	. 1747	
4-year average.....		. 1445	. 1660	. 1553	. 1623	
1916.....	. 2451	. 2944	. 2590	. 2262	. 2761	
1917.....	. 3125	. 3150	. 3350	. 2957	. 3635	

PIG TIN, PER POUND.

1912.....	\$0. 4513	\$0. 4640	\$0. 4650	\$0. 4679	\$0. 4682	\$0. 4790
1913.....	. 4394	. 3756	. 4640	. 4429	. 5046	. 4725
1914.....	. 3717	. 3572	. 3670	. 4003	. 3790	. 4880
1915.....	. 3759	. 3859	. 3700	. 3723	. 3790	. 3900
4-year average.....	. 4166	. 3916	. 4370	. 4196	. 4443	. 4637
1916.....	. 4225	. 3810	. 4180	. 4194	. 4469	. 4090
1917.....	. 5700	. 5620	. 5800		. 5763	. 5900

CAR-JOURNAL BEARINGS, PER POUND.

1912.....	¹ \$0. 1120		\$0. 182	\$0. 1430		\$0. 1691
1913.....	¹ . 1226		. 180	. 1388		. 1651
1914.....	¹ . 1066		. 146	. 1227		. 1379
1915.....	¹ . 1144		. 146	. 1522		. 1726
4-year average.....	¹ . 1142		. 155	. 1399		. 1618
1916.....	¹ . 1644		. 237	. 2071		. 2525
1917.....	¹ . 1998		. 345	. 2975		. 3622

AIR BRAKE HOSE, PER FOOT.

1912.....	\$0. 4750	\$0. 439	\$0. 327	\$0. 416	\$0. 433	\$0. 323
1913.....	. 5043	. 482	. 372	. 478	. 465	. 370
1914.....	. 4137	. 424	. 370	. 421	. 406	. 370
1915.....	. 2854	. 283	. 288	. 285	. 312	. 300
4-year average.....	. 4177	. 412	. 337	. 411	. 400	. 341
1916.....	. 2906	. 322	. 323	. 351	. 301	. 295
1917.....	. 4000	. 400	. 400	. 394	. 450	. 450

LUBRICATING FREIGHT LOCOMOTIVES, PER 1,000 MILES.

1912.....	\$2. 704	² \$1. 491	\$2. 50	\$2. 17	\$2. 41	\$2. 74
1913.....	2. 955	² 1. 738	2. 50	2. 32	2. 48	2. 91
1914.....	3. 029	² 1. 603	2. 47	2. 84	2. 52	2. 87
1915.....	/ 2. 897	² 1. 211	2. 00	3. 18	2. 70	2. 50
4-year average.....	2. 894	² 1. 522	2. 39	2. 61	2. 53	2. 76
1916.....	3. 035	² 1. 580	1. 93	2. 44	2. 77	2. 50
1917.....	3. 181		2. 30	3. 08	3. 68	2. 99

¹ Cost to manufacturer.² All locomotives.

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TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

LUBRICATING FREIGHT CARS, PER 1,000 MILES.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	7.4	2.64	6.72	5.0	6.05	9.86
1913.....	7.3	3.83	6.79	5.0	6.10	11.36
1914.....	6.2	2.60	6.83	5.5	6.33	10.98
1915.....	5.6	1.65	6.00	5.5	5.97	5.83
4-year average.....	6.7	2.72	6.58	5.26	6.10	9.58
1916.....	6.6	2.52	5.54	5.5	6.00	5.81
1917.....	7.0	.....	6.00	5.5	6.00	6.50

FUEL OIL, PER GALLON.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	3.95	3.1	2.30	2.00	4.09	3.55
1913.....	4.11	3.9	4.28	4.50	4.64	4.28
1914.....	3.11	3.2	3.40	3.16	3.12	2.89
1915.....	2.58	2.3	2.53	2.51	2.57	2.33
4-year average.....	3.43	3.1	3.16	3.08	3.95	3.28
1916.....	3.39	3.4	4.18	3.98	3.74	4.41
1917.....	7.50	3.75	6.87	4.00	6.50	7.00

150-DEGREE OR LONG TIME BURNING OIL, PER GALLON.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	5.76	8.26	8.20	5.38	7.56	9.77
1913.....	6.12	9.25	8.80	6.75	5.93	10.08
1914.....	4.93	8.25	7.90	5.83	4.71	10.00
1915.....	3.93	6.90	5.99	4.58	3.91	7.17
4-year average.....	5.26	8.21	7.90	5.65	5.58	9.11
1916.....	4.99	7.16	6.40	4.56	5.00	6.06
1917.....	9.05	7.69	7.75	6.00	7.25	6.25

GASOLINE, PER GALLON.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	14.21	16.91	12.00	9.90	6.61	13.14
1913.....	17.19	20.80	14.80	12.87	11.09	14.79
1914.....	13.44	18.69	11.50	9.93	14.75	12.58
1915.....	10.62	16.45	9.60	9.94	12.15	13.23
4-year average.....	13.97	18.36	12.10	10.73	10.30	13.85
1916.....	19.45	22.80	18.00	16.94	21.00	24.22
1917.....	19.67	30.00	21.00	20.50	24.00	29.83

PAINT, STEEL FREIGHT CAR, PER POUND.

	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
1912.....	7.89	8.05	6.0	6.25	7.50	16.9
1913.....	6.08	2.46	8.3	5.71	7.10	16.0
1914.....	6.78	2.57	5.3	4.89	6.20	16.4
1915.....	6.36	2.70	5.3	5.06	6.37	17.4
4-year average.....	7.06	2.67	6.2	5.35	6.55	16.6
1916.....	8.77	3.08	6.5	6.65	6.40	17.5
1917.....	8.33	4.12	8.0	8.19	7.25	17.5

¹ Cost to manufacture.

TABLE H.—Statement showing the fluctuations in the average prices paid for materials, supplies, and certain classes of equipment, etc.—Continued.

PAINT, BOX-CAR BROWN, PER POUND.

	B. & O.	Pa. lines.	N. Y. C.	N. & W.	C. & O.	P. & L. E.
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
1912.....	3.37	.....	3.4	3.66	5.9	14.8
1913.....	2.80	.....	3.3	2.87	5.3	15.0
1914.....	2.83	.....	3.6	2.43	4.8	14.7
1915.....	2.92	.....	3.2	2.51	2.9	14.2
4-year average.....	3.06	.....	3.4	2.75	4.4	14.6
1916.....	3.50	.....	3.8	3.11	3.3	16.3
1917.....	4.55	.....	4.35	4.00	4.5	16.3

LINSEED OIL, PER GALLON.

1912.....	\$0.65	\$0.664	\$0.66	\$0.637	\$0.615	\$0.846
1913.....	.48	.458	.459	.418	.429	.499
1914.....	.50	.515	.504	.475	.462	.514
1915.....	.54	.56	.553	.537	.51	.576
4-year average.....	.57	.568	.542	.514	.504	.561
1916.....	.73	.724	.746	.712	.65	.690
1917.....	1.02	1.00	1.03	.873	.90	1.02

WHITE LEAD IN OIL, PER POUND.

	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
1912.....	6.15	6.46	6.32	6.52	4.90	6.32
1913.....	6.11	6.17	5.92	6.30	5.90	6.25
1914.....	5.97	5.92	6.20	5.86	6.00	6.29
1915.....	6.40	6.27	6.47	6.70	6.30	6.23
4-year average.....	6.17	6.24	6.21	6.33	5.90	6.30
1916.....	7.89	8.98	8.68	8.62	8.20	8.12
1917.....	9.75	9.75	9.85	9.50	10.00	9.75

¹ Cost to manufacture.

AIR BRAKE EQUIPMENT.

Purchases by all the roads during the years 1912 to 1916, inclusive, and during the early months of 1917 were made subject to a discount of 25 per cent from list prices. Upon expiration of contracts in 1917 the discount allowed was only 5 per cent.

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SUPPLEMENT TO TABLE H.—Statement showing the average annual quantities purchased by the carriers named of the articles specified, during the years 1912 to 1916, inclusive.

Article.	Price unit.	Quantity.					
		B. & O.	Pa. lines west.	N. Y. C. R. R. (west of Buffalo).	N. & W.	C. & O.	P. & L. E.
Bituminous coal.....	Net tons.....	6,064,278	6,056,965	2,653,229	2,678,427	2,119,828	588,018
Freight locomotives.....	Per ton of tract. powr.	1,697	1,732	369	1,110	1,050	185
Coal cars.....	Per car.....	3,917	3,088	500	400	2,000	1,200
Box cars.....	do.....	853	1,328	500	100	.....	405
Steel rails.....	Per gro. ton.....	86,456	59,567	23,430	32,445	17,813	7,386
White-oak ties (untreated). ..	Each.....	1,393,508	1,989,373	305,592	1,735,825	1,093,632	67,859
Other ties (treated). ..	do.....	868,281	412,424	1,112,120	.....	31,833	303,381
White-oak lumber.....	Per 1,000 ft.....	11,890,300	18,001,685	9,202,723	9,202,513	7,357,909	2,011,329
Yellow-pine lumber.....	do.....	19,089,111	14,916,664	19,389,286	16,664,113	8,459,440	3,149,406
Stone ballast.....	Per cu. yd.....	497,397	.....	304,875	432,964	.....	17,654
Portland cement.....	do.....	55,576	168,398	32,605	47,179	37,583	52,909
Bridges (fabricated). ..	Per lb.....	16,075,786	30,801,667	6,198,290	9,715,984	2,141,376	4,588,004
Axles (car, tender, engine truck). ..	do.....	1,063,584	1,526,713	1,167,973	5,651,379	579,749	368,503
Axles (driving). ..	do.....	713,378	703,171	146,561	273,375	221,178	26,183
Steel wheels, 33".....	Each.....	2,132	2,458	1,036	15,816	584	165
Cast-iron wheels.....	Per 100 lbs.....	57,604,936	65,018,132	29,606,187	153,934	25,504,058	12,356,215
Springs (elliptical locomotive). ..	Per lb.....	2,033,943	299,283	173,849	277,742	430,327	151,660
Springs (coil). ..	do.....	506,508	1,567,848	1,307,292	1,786,498	1,211,389	1,062,704
Tires (locomotive). ..	do.....	5,329,856	5,087,189	2,304,687	1,063,034	1,628,255	513,796
Tubes (locomotive boiler). ..	Per foot.....	627,445	330,306	216,004	342,767	301,446	51,897
Boilers (cast steel). ..	Each.....	3,625	74	4,016	3,827	1,533	894
Brake beams (freight). ..	do.....	27,021	18,357	7,655	15,053	6,109	3,198
Couplers (freight car). ..	Per pair.....	9,101	13,916	12,236	7,619	3,804	4,447
Truck side frames (freight cars). ..	Each.....	532	.....	3,115	7,027	237	2,463
Bar iron.....	Per lb.....	5,080,092	24,901,575	18,102,535	8,567,877	730,816	2,152,949
Steel plates (½ inch and over). ..	do.....	14,238,047	4,222,377	4,196,507	21,083,000	4,679,126	5,602,764
Steel plates (boiler and fire box). ..	do.....	2,081,767	1,084,731	1,536,374	616,851	482,165	148,988
Steel bars.....	do.....	12,079,419	1,156,488	551,682	11,157,161	10,105,027	1,770,485
Castings (gray iron). ..	do.....	12,291,383	17,897,661	7,913,994	20,304,236	6,022,562	1,133,199
Castings (malleable). ..	do.....	1,199,442	1,532,756	1,406,499	1,735,859	625,947	655,062
Castings (steel). ..	do.....	2,869,876	4,913,354	1,513,737	1,601,024	1,169,260	890,526
Pig iron (Nos. 1 and 2). ..	Per gro. ton.....	2,772	.....	1,858	4,048	.....	.....
Cast-iron pipe.....	Per net ton.....	1,539	1,500	1,174	2,421	468	332
Track bolts (ordinary). ..	Per 100 lbs.....	3,912,637	3,663,271	2,071,531	1,854,388	1,404,627	477,945
Track bolts (heat treated). ..	do.....	952,984	855,556	.....	9,215	.....	.....
Track spikes.....	do.....	8,075,287	12,399,402	5,577,520	3,868,720	2,321,240	1,768,240
Angle bars.....	do.....	5,441,631	14,967,063	2,333,918	518,250	1,200,966	1,161,164
Tie plates.....	Per net ton.....	11,294	9,449	1,622	2,561	1,235	2,846
Track joints (patented). ..	do.....	140,366	14,408	24,609	69,814	24,009	.....
Ingot copper.....	Per lb.....	757,045	765,019	81,007	15,223	45,313	.....
Pig lead.....	do.....	348,514	1,538,926	166,342	179,452	62,334	9,269
Antimony.....	do.....	5,374	172,683	12,283	.....	12,542	.....
Brass or bronze composition metal. ..	do.....	801,302	2,056,953	479,654	183,033	630,486	.....
Pig tin.....	do.....	141,000	218,368	29,124	20,926	13,178	1,874
Car journal bearings.....	do.....	4,277,147	.....	1,773,687	1,069,133	.....	429,751
Air brake hose.....	Per foot.....	319,124	194,485	248,096	77,160	89,222	46,955
Lubricating freight locomotives. ..	Per 1,000 miles.....	561,191	562,824	14,004	17,262	21,650	1,786
Lubricating freight cars. ..	do.....	829,774	774,537	543,235	516,413	415,071	96,500
Fuel oil.....	Per gal.....	2,753,294	2,063,319	1,595,703	695,481	384,471	90,309
150° or long time burning oil. ..	do.....	1,010,093	919,198	399,461	414,308	441,214	19,597
Gasoline.....	do.....	140,378	33,260	253,443	228,584	86,285	29,017
Paint (steel freight car). ..	Per lb.....	127,665	607,397	75,515	100,181	59,491	182,417
Paint (box car brown). ..	do.....	402,826	.....	203,794	105,466	37,068	117,264
Lime-sed oil.....	Per gal.....	33,441	24,539	22,523	16,339	5,426	1,214
White lead in oil.....	Per lb.....	124,804	148,767	121,978	61,016	30,694	26,800

¹ Number of wheels.

² The figures represent millions, 000 being omitted.

TABLE I.—Comparative statement showing property investment and income account of 16 representative roads for the years ended June 30, 1912, 1915, and 1916.¹

Item.	1912	1915	1916	Per cent of increase over 1912.	
				1915	1916
Property investment.....	\$3,371,349,419	\$3,725,793,331	\$3,814,387,068	10.51	13.14
Operating revenues.....	717,026,490	718,626,336	890,478,088	.22	24.19
Operating expenses.....	509,862,341	518,870,510	590,065,132	1.71	15.73
Maintenance of way and structures.....	85,185,034	87,321,912	102,835,053	2.51	20.72
Maintenance of equipment.....	128,595,448	139,915,453	169,225,062	8.50	29.26
Traffic.....	12,705,319	12,333,774	12,332,062	* 2.91	* 2.92
Transportation.....	248,856,061	254,456,065	282,063,020	2.45	13.57
General expenses.....	16,473,998	17,873,979	19,275,103	8.50	17.00
Miscellaneous and other.....	18,548,481	5,009,007	7,335,053	* 64.04	* 60.45
Net revenue.....	207,164,149	200,055,326	300,412,966	* 3.43	45.01
Taxes.....	28,355,002	32,969,948	34,140,638	16.26	20.40
Uncollectible revenue.....		79,081	99,542		
Miscellaneous operating income.....		12,427	1,395		
Operating income.....	178,809,147	167,031,024	266,174,061	* 6.59	48.86
Hire of equipment—Balance.....	* 470,260	* 3,542,027	* 4,746,576	653.21	909.35
Joint facilities—Balance.....	109,515	597,691	593,048	445.76	441.52
Miscellaneous rents—Balance.....	1,393,371	909,055	396,535	* 35.48	71.54
Total.....	1,032,626	* 2,045,281	* 3,756,993	298.07	463.83
Net operating income.....	179,841,773	164,985,743	262,417,088	* 8.26	45.92
Ratio of net operating income to property investment..... per cent..	5.33	4.43	6.88	* 16.89	29.06

¹ For list of roads see Table J.

* Decrease.

* Debit.

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TABLE J.—Revenues and expenses of 16 representative railways¹ for the months of July, August, September, October, November, and December, 1916, compared with the corresponding months for 1915.

Item.	July.			August.			September.		
	1916	1915	Increase, 1916 over 1915.	1916	1915	Increase, 1916 over 1915.	1916	1915	Increase, 1916 over 1915.
Total operating revenues	\$80,573,294	\$87,652,338	Per cent, 19.1	\$85,578,866	\$71,879,156	Per cent, 19.1	\$83,471,739	\$74,630,606	Per cent, 11.8
Freight	56,618,596	47,940,467	18.1	61,458,065	51,086,158	20.3	59,621,391	53,900,470	10.6
Passenger	16,105,765	13,504,782	19.2	16,144,393	14,496,124	11.4	15,793,234	13,896,497	13.0
Mail	1,318,000	1,301,065	2.1	1,323,604	1,297,301	2.0	1,317,165	1,323,005	-2.6
Express	1,824,698	1,384,204	27.1	1,966,147	1,324,476	47.8	2,167,667	1,649,013	31.5
All other	4,705,255	3,477,545	36.3	4,698,197	3,467,128	37.8	4,597,282	3,533,621	19.9
Total operating expenses	52,347,338	48,556,923	20.2	54,026,387	45,086,714	19.8	53,902,054	46,294,336	16.4
Maintenance of way and structures	9,477,950	8,169,984	16.0	9,988,334	8,688,794	16.4	9,896,215	8,846,968	11.8
Maintenance of equipment	14,355,049	11,653,435	23.2	14,904,481	12,812,068	21.1	14,745,118	12,776,908	15.4
Traffic	1,287,745	999,273	28.9	1,164,102	1,026,615	13.5	1,133,765	968,456	17.7
Transportation	24,877,492	20,597,976	20.8	25,502,561	21,024,352	21.3	25,591,017	21,596,810	18.5
General	1,707,727	1,549,565	10.2	1,746,843	1,468,762	19.3	1,785,102	1,487,316	20.0
All other	691,375	598,700	17.8	720,006	607,103	18.6	751,837	598,948	26.5
Net operating revenue	28,225,956	24,095,400	17.1	31,552,479	26,792,442	17.8	29,599,685	26,336,270	4.4
Taxes	3,016,264	2,744,768	9.9	3,036,179	2,730,332	11.2	3,318,861	2,739,620	21.0
Uncollectible revenue	8,899	14,131	-57.3	14,811	9,278	59.6	17,408	19,369	-10.1
Operating income	25,200,893	21,336,501	18.1	28,501,489	24,052,832	18.5	26,223,396	25,587,381	2.5
Average mileage represented	26,801.15	28,710.17	.3	28,706.72	28,712.03	.3	28,706.72	28,712.03	.3

Item.	October.			November.			December. ¹		
	1916	1915	Increase, 1916 over 1915.	1916	1915	Increase, 1916 over 1915.	1916	1915	Increase, 1916 over 1915.
Total operating revenues.....	\$84,191,976	\$77,367,475	Per cent. 8.8	\$79,182,270	\$74,847,791	5.6	\$85,182,255	\$83,182,745	2.4
Freight.....	61,731,456	57,821,225	6.8	58,785,519	56,325,485	4.3	60,167,084	57,521,989	4.6
Passenger.....	14,385,589	12,918,023	11.3	12,636,242	11,856,598	6.6	9,882,280	8,997,267	9.8
Rail.....	2,115,868	1,718,915	23.6	1,811,277	1,284,235	41.8	9,882,280	8,997,267	9.8
Express.....	2,159,887	1,718,915	25.6	1,841,231	1,284,235	43.9	9,882,280	8,997,267	9.8
All other.....	45,625,600	48,148,105	5.3	4,186,347	3,906,280	7.2	1,484,840	1,229,880	21.5
Total operating expenses.....	9,489,939	8,948,015	6.1	6,418,347	4,906,280	24.7	2,701,810	2,219,887	21.7
Maintenance of way and structures.....	15,411,692	13,938,015	10.6	13,112,220	10,475,113	25.2	40,662,698	36,455,168	11.6
Maintenance of equipment.....	1,139,827	985,911	15.3	1,072,000	1,006,783	6.8	6,147,191	10,108,431	39.3
Traffic.....	26,908,474	23,071,847	16.6	27,206,542	21,049,202	29.2	10,899,845	17,767,262	38.7
Transportation.....	1,719,910	1,549,898	11.6	1,727,292	1,589,446	8.7	20,965,315	17,801,754	17.7
General.....	1,719,910	1,549,898	11.6	1,727,292	1,589,446	8.7	1,467,083	1,240,122	18.5
All other.....	28,546,928	28,219,870	1.2	24,647,798	26,908,151	-8.4	14,499,732	16,477,577	-13.2
Net operating revenue.....	8,414,770	2,745,683	204.8	3,533,408	2,612,863	35.2	2,707,923	2,173,450	24.6
Taxes.....	5,908	11,636	-49.8	3,533,408	2,612,863	35.2	2,707,923	2,173,450	24.6
Uncollectible revenue.....	26,146,251	26,423,651	-1.2	21,107,573	24,278,863	-13.1	11,682,624	14,265,777	-18.8
Operating income.....	28,773.15	28,707.74	.2	28,860.36	28,709.43	.5	19,518.88	19,665.86	-.8
Average mileage represented.....									

¹ The 16 railways included in this statement are: Baltimore & Ohio; Bessemer & Lake Erie; Chesapeake & Ohio; Cincinnati, Hamilton & Dayton; Cleveland, Cincinnati, Chicago & St. Louis; Hooking Valley, Kanawha & Michigan; Norfolk & Western; New York Central; Pennsylvania Railroad; Pennsylvania Company; Pittsburgh & Lake Erie; Pittsburgh, Cincinnati, Chicago & St. Louis; Toledo & Ohio Central; Western Maryland; and Wheeling & Lake Erie.

² Decrease.

³ The Kanawha & Michigan, New York Central, Pittsburgh & Lake Erie, and Toledo & Ohio Central had not filed December returns with the Interstate Commerce Commission on the date the original statement was compiled and are therefore not included in the December comparison.

TABLE K.—Statement showing the investment in and the results from the operation of coal docks for the years ended June 30, 1913, to 1916, inclusive.¹

	1913	1914	1915	1916	Four years.
Approximate original cost:					
All docks.....	\$4,828,669.81	\$4,844,199.60	\$6,252,414.57	\$6,261,084.53	\$6,261,084.53
B. & O. docks.....	408,269.86	408,269.86	408,269.86	408,269.86	408,269.86
Receipts from operation: ²					
All docks.....	1,109,578.91	1,241,691.17	1,055,811.66	1,063,300.07	4,470,681.81
B. & O. docks.....	114,319.45	140,594.02	112,772.39	111,608.43	479,294.29
Cost of operation: ³					
All docks.....	1,150,422.80	1,220,808.74	1,171,054.94	1,223,667.33	4,706,038.81
B. & O. docks.....	106,518.14	122,194.96	85,630.23	100,655.18	414,998.50
Income from operation:					
All docks.....	\$40,543.89	20,797.43	\$115,243.28	\$190,367.26	\$266,357.00
B. & O. docks.....	7,891.31	18,399.07	27,142.16	10,953.25	64,285.79
Coal handled:					
All docks..... tons..	22,721,964	25,297,370	20,808,377	22,192,964	91,015,685
B. & O. docks..... do.	3,645,795	3,840,478	2,889,490	3,644,414	13,620,177
Average receipts per ton:					
All docks.....	\$0.0488	\$0.0491	\$0.0508	\$0.0479	\$0.0491
B. & O. docks.....	.0314	.0366	.0472	.0306	.0355
Other than B. & O. ....	.0522	.0513	.0512	.0513	.0515
Average cost per ton:					
All docks.....	.0506	.0483	.0563	.0551	.0524
B. & O. docks.....	.0292	.0318	.0358	.0276	.0307
Other than B. & O. ....	.0547	.0512	.0590	.0605	.0561
Average income per ton:					
All docks.....	¢.0018	.0008	¢.0055	¢.0072	¢.0033
B. & O. docks.....	.0022	.0048	.0114	.0030	.0048
Other than B. & O.	¢.0025	.0001	¢.0078	¢.0092	¢.0046

¹ The following properties are represented in the tabulation:

Location of dock.	Name of owner.	Operating company as of Dec. 31, 1916.
East Toledo, Ohio.....	C., H. & D. Ry.....	C., H. & D. Ry.
Toledo, Ohio.....	Hocking Valley Ry.....	Hocking Valley Ry.
Ashtabula, Ohio.....	P., Y. & A. Ry.....	Lower Lake Dock Co.
Do.....	do.....	Pittsburgh Coal Co.
Cleveland, Ohio.....	C. & P. Ry.....	Do.
Do.....	do.....	J. W. Ellsworth & Co.
Do.....	do.....	Cambridge Collieries Co.
Erie, Pa.....	E. & P. R. R.....	Youghiogheny & Ohio Coal Co.
Sandusky, Ohio.....	T. C. & O. R. R. R.....	Lower Lake Dock Co.
Ashtabula Harbor, Ohio.....	New York Central.....	Pittsburgh Coal Co.
Do.....	do.....	Pickands Mather Co.
Huron, Ohio.....	W. & L. E.....	Cleveland Stevedore Co.
Toledo, Ohio.....	T. & O. C.....	Toledo & Ohio Central Ry.
Lorain, Ohio.....	B. & O.....	Balto. & Ohio R. R.
Cleveland, Ohio.....	Erie R. R.....	American Trimming Co.

² Includes receipts for the following services: Handling lake cargo coal (96.5 per cent of total), handling other coal and coke.³ Includes the following items: Operating expenses, depreciation, taxes, insurance, "other expenses," and 6 per cent interest on investment in dock properties.⁴ Deficit.

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No. 7760.
DETROIT COAL COMPANY ET AL.
v.
MICHIGAN CENTRAL RAILROAD COMPANY.

Submitted November 11, 1916. Decided July 6, 1917.

The findings and conclusions in *The Detroit Reconsigning Case*, 25 I. C. C., 392, 37 I. C. C., 274, namely, that the assessment of a \$2 charge for reconsigning coal at Detroit, under the circumstances therein explained, was not unreasonable or otherwise unlawful, reaffirmed.

No appearance for complainant.

Hal H. Smith for intervener.

J. J. Danhof and *E. S. Ballard* for defendant.

REPORT OF THE COMMISSION ON REHEARING.

HARLAN, Commissioner:

The circumstances prompting the rail lines in July, 1912, to propose a charge of \$2 a car for reconsigning coal within the switching district of Detroit, a service theretofore performed without charge, are fully explained in *The Detroit Reconsigning Case*, 25 I. C. C., 392. The charge was not intended merely as a means of acquiring additional revenue; on the contrary it was not to apply at all when the reconsigning order was given before the car reached certain designated points short of Detroit, but only on cars that had arrived upon the terminals before their final disposition was indicated to the carrier. The more substantial basis for the proposal was a practical and earnest effort on the part of the carriers to keep their terminals clear and to relieve an unprecedented congestion at Detroit, caused chiefly by the great quantities of coal held there for reconsignment. It was thought that a charge would tend to discourage the practice of letting the cars reach the hold tracks in Detroit before giving final disposition, and would influence the dealers to arrange their coal transactions in such a way as to obviate the necessity of reconsignment at the terminals, and thus aid in clearing up a protracted congestion that was seriously hampering the interests of the shippers as well as the carriers.

Looking at the situation in the light in which it was presented upon the hearing of that case, we were impressed with the view that by a change in methods the carriers might be enabled to effect the

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required reconsignments under circumstances that would avoid the necessity of holding and reswitching the coal at Detroit. It was shown that, by voluntarily notifying the consignees as their coal passed Toledo, a point approximately 60 miles short of Detroit, one of the carriers had been able generally to secure the reconsigning orders prior to the arrival of the coal at the latter point, thus making it unnecessary to switch the cars to the hold tracks and later re-switch them to the consumers. The terminals of that line in this way were kept reasonably clear, and the result suggested that other carriers might successfully follow the same course; and during the oral argument of the case they expressed a willingness to make a trial of the plan. How it would work out was a question that could be determined only by experience; but if successful it would mean an appreciable saving in the carriers' operating expenses and at the same time would be a great convenience to the coal dealers. It must be remembered, however, that the real issue before us in the case referred to was the propriety and the reasonableness of the charge of \$2 a car for reconsigning coal within the switching limits of Detroit, upon an order given after the car had passed the designated points short of Detroit and was on its way to the hold tracks of the carrier. In presenting the case, the conditions of extreme congestion on the terminals at that point were discussed at length upon the record by the parties in interest; and in disposing of the complaint we took steps to insure a trial of what promised to be an economical and practical aid in overcoming these terminal difficulties that had chiefly influenced the carriers in proposing the reconsignment charge.

In our report, after discussing the coal dealers' contention that the congestion was largely due to the defendant carriers' own poor management, we announced, in substance, and the record seemed to justify some such expression, that the carriers (*id.*, p. 395), doing themselves what they reasonably could to clear their terminals, ought voluntarily to notify the consignees when their coal passed Toledo, so as to enable them to give their reconsigning orders prior to the arrival of their cars on the Detroit terminals. But, as should be carefully noted, in considering the reasonableness of the proposed charge itself, we said (*id.*, p. 395):

On the record we find * * * that the proposed charge is not unreasonable when considered by itself and wholly apart from the conditions that have occasioned the congestion at Detroit, or in a material measure contributed to it.

The success of the plan of giving the passing notice from Toledo being more or less uncertain, we purposely refrained from entering an order, feeling that no definite requirements under an order should be imposed upon the carriers, at least until we had been informed more

fully as to the outcome of what was a measure of expediency in a purely experimental stage.

The carriers during the oral argument, as previously stated, expressed their willingness to give the plan a trial. But in the tariffs subsequently filed they did not provide, as was here contended, that, as a condition precedent to the imposition of the reconsigning charge, notice would be given to the consignees when their coal passed Toledo. The exact terms of the respondents' tariffs in relation to the passing notice are fully explained in *The Detroit Reconsigning Case*, 37 I. C. C., 274, 278. The result was that the \$2 charge was assessed on some thousands cars of coal reconsigned at Detroit while the tariffs were in force and on which the passing notice had not been given to the consignees. Efforts were made, however, by many of the carriers to give the passing notice. But the enlargement of the terminals and the result of the notices that were given relieved the congestion to such an extent that it soon became impracticable to give the notice, because the time intervening between the passing of the car at Toledo and its arrival in Detroit had become too short to enable the consignees to give their disposition orders in time to avoid a reconsigning charge. Finally, the terminal conditions were so improved that the attempt to give the passing notice was altogether abandoned and by April, 1915, the carriers, under lawfully published tariffs, had voluntarily returned to their former practice of permitting reconsignment within the switching limits of Detroit without charge, when the orders were filed within 24 hours after the arrival of the cars. This practice prevails at this time.

Upon the ground that where the carriers had failed to give the passing notice the charge of \$2, imposed during the period the tariffs were in force, was illegal, and upon the further ground that it also was unreasonable in the light of our holding in *The Detroit Reconsigning Case*, 25 I. C. C., 392, many of the consignees for whom the reconsignment service was performed, refused to pay it. For the purpose, however, of testing their contentions, the charges on a few cars were paid, and these payments form the basis of the complaint for reparation which is here on rehearing. The issues thus raised were first considered in *The Detroit Reconsigning Case*, 37 I. C. C., 274, where we held, quoting from the syllabus, that—

The tariffs of respondents authorized, under certain circumstances, a charge of \$2 per car for reconsigning coal at Detroit, Mich., to points within the switching limits of that city, but the provisions of the tariff did not, as contended by the complaint, make the imposition of the charge conditional upon the terminal carriers having first given the consignee at Detroit notice that the car had arrived at Toledo, Ohio. Charges collected upon the shipments involved in the complaint not shown to have been unreasonable. Reparation denied and complaint dismissed.

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The facts upon which these conclusions were based have been fully stated in the report just cited and need not be repeated here. The complainant, in that proceeding, now in the hands of a liquidating trustee, has shown no further interest in the case; but the Detroit Coal Exchange, which had intervened in the interest of many of its members, filed this petition for rehearing in which we are asked to reverse the conclusions there reached. The amount involved on the record is probably between \$17,000 and \$18,000, consisting principally of unpaid charges; the total amount involved, including all the lines between Toledo and Detroit, is variously estimated at from \$60,000 to \$120,000.

In its petition, and upon the record of the rehearing, the intervenor questions the correctness of the interpretation made in the case last cited, of the tariffs in which the \$2 charge was published, pointing out that for a period of some months the carriers and the consignees alike acted upon the assumption that the Commission, in the previous case, had required, and that the tariffs had in fact provided, free reconsignment unless the passing notice had been given. It is clear, however, that the express terms of the tariff must govern. The rule that tariff provisions can not be altered by custom, or by the intention of the framers, or by any understanding or misunderstanding on the part either of the carriers or the shippers, seems too well settled to require the citation of authorities.

The intervenor also points to our decision in *Becker v. P. M. R. R. Co.*, 28 I. C. C., 645, wherein the carriers were required as a condition precedent to the imposition of a reconsignment charge, to give the coal dealers at Milwaukee prompt and reasonable notice of the dates on which their shipments passed Toledo. In that case testimony was offered tending to show that Detroit and Milwaukee compete with one another and that the denial of a like arrangement at both points resulted in discrimination. But the pleadings in this case raise no issue under section 3 of the act; nor was there substantial proof that the terms under which reconsignment is performed for the Milwaukee coal dealers is unduly preferential of those dealers to the undue prejudice and disadvantage of the Detroit coal dealers. Moreover, in the case cited it appeared that because of the distance between Toledo and Milwaukee it was practicable to give the passing notice. Just the reverse developed to be the case in respect of Detroit; because of the short distance between Toledo and Detroit it was found impracticable to give the notice as the car passed Toledo in sufficient time to enable the consignee to act before it reached Detroit.

As previously stated when we were considering for the first time, in *The Detroit Reconsigning Case*, 25 I. C. C., 392, the propriety of the \$2 charge for the reconsignment of coal within the switching district of Detroit, we found it to be a reasonable exaction for the

service, considered wholly apart from the conditions that had occasioned or contributed to the terminal congestion at Detroit. The plan of giving the passing notice from Toledo was suggested from the bench as having a possible tendency to relieve the congestion and at the same time enabling the consignees to avoid the \$2 charge by giving disposition before their cars reached Detroit. The coal dealers had contended that the unfavorable terminal conditions there were largely the result of the bad management of the carriers and particularly of the connections of the delivering lines. As to this we said, 25 I. C. C., 392, 395, that, wherever the fault might lie, the respondents ought to do what they reasonably could to avoid delays in the delivery of their traffic. It was in connection with the discussion of that phase of the record, and in the light of the experience of one of the delivering lines at Detroit, that the usefulness of the passing notice by the delivering lines was suggested as a measure of expediency that might serve to relieve the congestion. It is true that language is used in that part of the report that is not as clear as it should have been, but a careful reading of the entire report, we think, will fail to disclose any modification of the definite finding there made, namely, that the \$2 charge, when considered by itself and wholly apart from the conditions that occasioned the congestion, was a reasonable charge for the service. Any other finding would have been wholly inconsistent with the facts shown of record and also with the conclusions and findings in *Detroit Traffic Asso. v. L. S. & M. S. Ry. Co.*, 21 I. C. C., 257, where the congested terminal conditions at Detroit were first brought to our attention, and where we fixed, as reasonable for the future, a charge of \$2 per car for the reconsignment of coal at Detroit for points beyond. It would be inconsistent also with many cases since decided, in which reconsigning charges ranging as high as \$5 per car have been sustained as reasonable. That any reconsignment, and even a reconsignment in transit where no terminal conditions are involved, means an expense to the carrier, for which it may properly be recompensed, has frequently been demonstrated upon records before us and is now a generally conceded principle.

In the light of the whole record, which has been carefully reviewed and reconsidered, we adhere to the findings and conclusions announced in *The Detroit Reconsigning Case*, 37 I. C. C., 274, and again conclude and find that the charge in question was reasonable and, as published in the tariffs of the respondents, was not conditioned upon the giving by the carriers to the consignees of a passing notice from Toledo.

An appropriate order will be entered to give effect to these findings.

REOPENING OF FOURTH SECTION APPLICATIONS NOS. 205, ETC.
TRANSCONTINENTAL RATES.

Submitted April 5, 1917. Decided June 30, 1917.

1. Existing water competition found to be a negligible factor in affecting the rates by rail between Atlantic and Pacific coast terminals.
2. Rates on commodities from eastern defined territories to Pacific coast terminals lower than the rates on like traffic to intermediate points found not justified under existing circumstances.
3. Present effective rates on certain specified commodities from all eastern defined territories to Pacific coast terminals found not unreasonably low and not to have been induced by water competition.
4. Present effective rates on other commodities in schedules B and C found, as a whole, unreasonably low from territories east of the Missouri River to Pacific coast terminals.
5. Rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports via rail-and-water routes through Galveston to the Atlantic seaboard should be revised to accord with the requirements of the long-and-short-haul clause of the fourth section.

H. A. Scandrett, Charles Donnelly, F. V. Brown, T. J. Norton, F. D. Burroughs, John F. Finerty, and F. H. Wood for petitioners and respondents.

F. A. Jones for Arizona Corporation Commission and Interior Counties Freight Bureau of Southern California.

Frank Lyon for American-Hawaiian and Luckenbach steamship companies.

Clifford Thorne for Iowa State Board of Railway Commissioners.

Oscar L. Owen for New Mexico State Corporation Commission.

F. W. Dougherty and J. J. Murphy for state of South Dakota and South Dakota Railroad Commission.

Joseph N. Teal and William C. McCulloch for Portland Traffic & Transportation Association.

H. U. Barlow for Chicago Association of Commerce.

* ¹This report embraces also the reopening of Fourth Section Applications Nos. 342, 343, 344, 349, 350, 352, and 10836, respecting commodity rates from eastern defined territories to Pacific coast terminals and intermediate points; the reopening of Fourth Section Applications Nos. 9813, 10110, 10126, 10155, 10186, and 10189, respecting rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports and intermediate points by rail-and-water routes through Galveston to the Atlantic seaboard; Docket No. 9258, Commercial Club of Kansas City, Mo., v. Atchison, Topeka & Santa Fe Railway Company et al.; and Docket No. 9278, Arizona Corporation Commission v. Atchison, Topeka & Santa Fe Railway Company et al.

Seth Mann for San Francisco Chamber of Commerce.

J. B. Campbell for Spokane Merchants' Association and Spokane Chamber of Commerce.

N. L. Moon for Alan-Wood Iron & Steel Company.

Wilmer M. Wood for United States Cast Iron Pipe & Foundry Company and American Cast Iron Pipe Company.

C. H. Reigart for American Iron & Steel Manufacturing Company.

Raymond Marsh for American Washing Machine Manufacturers' Association.

R. P. Smith for Automatic Sprinkler Company of America.

Herbert Sheridan for Canned Goods Exchange of Baltimore and National Canners' Association.

John B. Rucker for Baton Rouge Chamber of Commerce.

*J. H. McCumme*y for Boston Woven Hose & Rubber Company.

George A. Page and *Walter Engels* for Borden's Condensed Milk Company.

H. C. Crawford for Cambria Steel Company.

W. D. Emil for T. A. Snyder Preserve Company.

Martin Van Peryn for Wholesale Grocers' Exchange of Chicago and Sprague, Warner & Company.

C. L. Lingo for Inland Steel Company.

Ward Wise for Mark Manufacturing Company.

Luther M. Walter for Morris & Company and Wilson & Company, Incorporated.

I. I. Bloom for Coast Products Company.

E. E. Bockstedt for Columbian Rope Company.

R. L. Hearon for Colorado Fuel & Iron Company.

F. W. Maxwell for Denver Transportation Bureau.

G. Roy Hall for Commercial Club of Duluth, Rust-Parker Company, and Gowan-Lenning-Brown Company.

C. F. Rowe for Marshall-Wells Hardware Company.

James E. Needham for Electric Hose & Rubber Company.

C. C. Crouse for F. W. Fitch Company and various members of the Iowa State Manufacturers' Association.

E. K. Prickett for Macy Company and Office Equipment Traffic Association.

Edward C. Rentz for Globe-Wernicke Company and Office Equipment Traffic Association.

W. F. Price for J. B. Williams Company.

W. P. Tingley for Chamber of Commerce of Huntington, W. Va., Hague-Ratcliff Company, Sehon-Stevenson Company, and other companies.

C. A. Rosemond for Illinois Wholesale Grocers' Association.

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- F. A. Ogden* for Jones & Laughlin Steel Company.
S. J. Bolton for Chamber of Commerce Traffic Bureau of La Crosse, Wis.
W. E. Howes for Lackawanna Steel Company.
H. L. Burch for Board of Commerce of Lexington, Ky.
W. A. Ensten for Ludlow Valve Manufacturing Company.
H. M. Zook for Lukens Iron & Steel Company.
Bates Lowry for Lunkenheimer Company.
C. C. Ward for Michigan Wholesale Grocers' Association and Indiana Wholesale Grocers' Association.
Frank Barry for Merchants & Manufacturers' Association of Milwaukee.
T. M. Henderson for Traffic Bureau of Nashville, Tenn.
J. F. Townsend for National Tube Company.
R. A. Van Kirk for National Varnish Manufacturers' Association.
William H. Day for New England Shoe & Leather Association, Essex County Associated Boards of Trade, and Lynn Chamber of Commerce.
J. H. Moyle for McClintic & Marshall Company.
J. M. Bomgardner for John A. Roebling's Sons Company.
J. P. Olney for National Canners' Association, New York Canners' Association, and Rome Chamber of Commerce.
Clarence Watkins for Paint Manufacturers' Association of the United States.
Charles Dushkind for Tobacco Merchants' Association of the United States.
W. S. McCarthy, S. H. Love, and H. W. Prickett for Traffic Bureau of Utah.
L. F. Berry for Reid, Murdoch & Company.
F. R. Levins for Rust-Parker Company.
S. J. Wettrick for Transportation Bureau of Seattle Chamber of Commerce.
J. E. Henry for Standard Sanitary Manufacturing Company.
A. F. Verson for Business Men's League of St. Louis.
George F. Hichborn for United States Rubber Company.
Francis J. Rickert for Wisconsin Wholesale Grocers' Association.
J. E. Bryan for Wisconsin Traffic Association.
A. T. Cobb for Yawman & Erbe Manufacturing Company and Office Equipment Traffic Association.
R. D. Sangster for Commercial Club of Kansas City.
E. H. Hogueland for Topeka Traffic Association.
Charles S. Belsterling for National Tube Company, American Bridge Company, American Sheet & Tin Plate Company, and Illinois Steel Company.

W. H. Titus for Cluett, Peabody & Company.

F. T. Bentley for Illinois Steel Company and Minnesota Steel Company.

A. B. Caswell for Milwaukee Tanners' Freight Bureau.

H. F. Bartine, J. F. Shaughnessy, Geo. B. Thatcher, and W. H. Simmons for Railroad Commission of Nevada.

A. P. Ramstedt, Leonard Way, and A. L. Freehaver for Public Utilities Commission of the State of Idaho.

George B. Graff for Boise Commercial Club.

C. T. Helpling for Chambers of Commerce of Long Beach, San Diego, San Pedro, and Wilmington, Cal., Santa Ana Merchants & Manufacturers' Association, and Savage Tire Company.

W. H. Metson, Malcolm A. Coles, and Frank Van Sant for Independent Wine Shippers of California.

Charles Clifford and Malcolm A. Coles for Retail Dry Goods Association of California.

Charles Clifford for C. C. Morse & Company, Pacific Hardware & Steel Company, William Wrigley, jr., Company, and other companies.

L. R. Bishop and H. M. Wade for Buckingham & Hecht, Dolliver & Brothers, and others.

W. D. Wall for San Jose Chamber of Commerce.

G. J. Bradley for Merchants & Manufacturers' Association of Sacramento.

Stanley E. Semple for Stockton Traffic Bureau.

E. P. Gregson for Associated Jobbers of Los Angeles and Los Angeles Chamber of Commerce.

George N. Hoodenpyl for City of Long Beach.

Frank M. Hill for Fresno Traffic Association.

R. E. Allen for R. E. Allen.

Jay W. McCune for Traffic & Transportation Bureau of Tacoma Commercial Club and Chamber of Commerce.

Edward M. Cousin for Willamette Valley & Southern Oregon shippers.

E. S. De Pass for Carnation Milk Products Company.

C. W. Fulton for port of Astoria, Oreg.

J. H. Lothrop for Portland Traffic & Transportation Association.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

In *Reopening Fourth Section Applications*, 40 I. C. C., 85, we found that the existing competition by water at the time the report was made, June 5, 1916, between the Atlantic and Pacific coasts
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of the United States, did not justify the relationship of rates then existing. We also found that the maintenance of these low rates on the schedule C commodities named in *Commodity Rates to Pacific Coast Terminals*, 32 I. C. C., 611, and the maintenance of the rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports, via rail and water, through Galveston to the Atlantic seaboard, while higher rates were maintained to or from intermediate points, had the effect of unduly preferring the coast points and unduly prejudicing intermediate points. Orders were entered requiring the carriers, on or before September 1, 1916, to readjust the rates on the schedule C commodities in accordance with the terms of our order in *Commodity Rates to Pacific Coast Terminals*, *supra*, respecting schedule B commodities. The relief orders which had been issued to the carriers respecting the rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to Atlantic ports were rescinded, effective September 1, 1916.

Pursuant to these orders, new tariffs were filed, effective September 1, 1916, containing rates purporting to be in accordance with the requirements of the orders. The new tariffs contained many increases in the rates to the Pacific coast on the schedule C items, and in the rates on the California products from California ports to the Atlantic seaboard. Protests were filed with the Commission on behalf of a large number of shippers and receivers of freight, representing many localities in that portion of the United States lying east of the Missouri River, and localities on or near the Pacific coast. It was strongly urged that the marked increases brought about in these rates would be destructive of certain industries, and would result in material losses on account of unfilled contracts, and that some of the new rates were unjust and unreasonable in and of themselves. The Commission thereupon suspended the new rates until December 30, 1916.

On September 9, 1916, the Merchants' Association of Spokane, Wash., filed a petition, alleging that there was not at that time and had not been since April 5, 1916, any water competition whatever between the Atlantic and the Pacific coasts of the United States, and that there existed no justification for the maintenance of lower rates from eastern defined territories to the Pacific coast than to intermediate points. The petition requested us to reopen the fourth section applications relating to rates from eastern defined territories to the Pacific coast and intermediate points, and after hearing and investigation to make such new or amended order relating to these rates as the conditions shown might justify.

On October 17, 1916, by appropriate order, we reopened all of the fourth section applications relating to the rates on commodities from eastern defined territories to Pacific coast ports and intermediate points, and all of the applications respecting rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to Atlantic ports.

We also assigned for hearing, in connection with the above-described fourth section applications, Docket No. 9258, *Commercial Club of Kansas City, Mo. v. Atchison, Topeka & Santa Fe Railway Company et al.*, and Docket No. 9278, *Arizona Corporation Commission v. Atchison, Topeka & Santa Fe Railway Company et al.* Hearings have been held at Chicago, Ill., Salt Lake City, Utah, San Francisco, Cal., Portland, Oreg., and Spokane, Wash.

The rates stated herein are in cents per 100 pounds.

Prior to the hearings the carriers sought and obtained authority to cancel the suspended tariffs and to publish in lieu thereof new tariffs containing more moderate increases to and from Pacific coast points. These new tariffs were filed to become effective December 30, 1916, on statutory notice, and had the effect of increasing the rates on all the schedule C items from nearly all eastern defined territories to the Pacific coast ports by 10 cents in carloads and 25 cents in less than carloads. No increases were made in the rates to intermediate points in any instance in which the resulting rate would be higher than the rate to the Pacific coast ports. The new tariffs also had the effect of increasing by 10 cents the carload rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports via rail-and-water routes through Galveston to the Atlantic ports, and also of increasing the all-rail rate on canned goods from California points to eastern defined territories from 62½ cents to 72½ cents. The effective date of some of the eastbound rates was subsequently postponed by the carriers until March 1, 1917.

The complaint in No. 9258 puts in issue the relation between the rates on commodities to intermountain points from Kansas City as compared with the rates contemporaneously maintained on the same articles from points east of the Missouri River, complainants asserting that the present differences, particularly on items contained in schedule B, are less than they reasonably should be, and subject Kansas City and its shippers to undue prejudice and disadvantage in attempting to supply the intermountain region with manufactured articles.

The complaint of the Arizona Corporation Commission, No. 9278, puts in issue the reasonableness of the rates on commodities from certain eastern territories to Arizona points, as compared with the rates to Pacific coast cities.

THE SITUATION AS TO WATER COMPETITION.

The following figures respecting the ships and tonnage moving via the Panama Canal between the Atlantic and Pacific coasts are said to have been taken from the Canal Record:

	Westbound.		Eastbound.	
	Number of ships.	Tonnage.	Number of ships.	Tonnage.
Aug. 14, 1914, to June 30, 1915.....	172	951,044	163	995,614
June 30, 1915, to June 30, 1916.....	52	227,103	41	217,285
June 30, 1916, to Nov. 11, 1916.....	8	20,223	10	13,985

The evidence showed that two Pacific Coast Steamship Company steamers sailed from San Francisco for Atlantic ports during the latter part of August, 1916; that two American-Hawaiian steamers passed through the canal with eastbound cargoes in recent months, and that two steamers sailed from New York for the Pacific coast in July and one in October, 1916. One steamer reached Charleston, S. C., in September, 1916, carrying 17,000 barrels of flour from north Pacific coast points. There are statements in the record of other sailings and expected sailings, but the table of tonnage moved from June 30 to November 11, 1916, shows that this movement is slight and the evidence indicates that the movement has been irregular and uncertain. Much has been said in the record respecting prospective water competition between the two coasts. A most significant thing about the prospective water competition is the enormous increase in shipbuilding at the various ports of the United States.

A statement offered in evidence on behalf of Pacific coast cities, compiled from data gathered from marine engineering publications, purported to show that on October 2, 1916, there were building in the various shipbuilding plants of the United States a gross tonnage of vessels of all descriptions approximating 1,600,000 tons. Of this tonnage, 40 vessels of American ownership, with a gross tonnage of 165,046 tons, were being built at shipyards on the great lakes, and 7 vessels, with a gross tonnage of 19,000 tons, for which the ownership is not shown, were also being built at these shipyards. Ninety-four vessels of American ownership, with a gross tonnage of 372,665 tons, were under construction on the two coasts of the United States, and 29 vessels, with a tonnage of 123,555 tons, were also under construction in the same shipyards, but the ownership of these vessels is not shown. An extract offered in evidence, taken from the consular and trade reports on November 18, 1916, showed

steel merchant vessels, building or under contract in American shipyards on November 1, 1916, according to shipbuilders' returns to the Bureau of Navigation, Department of Commerce of the United States, numbering 417 vessels, of 1,479,946 gross tons. During October, 1916, American shipyards are said to have finished 17 steel merchant vessels of 52,941 gross tons and made new contracts for 17 steel merchant vessels of 77,877 gross tons. It is stated that there were under contract in American shipyards on November 1, 1916, 314 merchant vessels of 960,899 gross tons, which the builders expected to launch on or before June 30, 1917. How many of these are of American ownership or for what service each is designed it is not possible to determine from the facts before us.

It is clear, however, that the present service by water between the two coasts of the United States is infrequent, sporadic, and irregular. It is inferable that the great shipbuilding program now being carried forward in the shipbuilding plants of the United States will result in bringing into this coast to coast trade a number of ships in the not distant future. Testimony on behalf of the merchants on the Pacific coast showed their disposition and capacity to organize and equip steamship lines for this business in the event of radical increases in the rail rates between the two coasts. It was stated that in 1893 the North American Navigation Company was organized under guaranties of the merchants of San Francisco. Ships were acquired and put in operation, with the result of bringing about marked reductions in the then existing rail rates between the two coasts.

The present situation, however, as to the water competition is beyond dispute. There is no existing competitive necessity by reason of water service between the two coasts which warrants the rail carriers in maintaining under present circumstances lower rates to the Pacific coast than are normal and reasonable or lower than to intermediate points.

ATTITUDE OF THE RAIL CARRIERS.

The rail carriers are before us in this proceeding seeking authority to continue lower rates on a large proportion of all commodities to the Pacific coast than to intermediate points and lower rates from the Pacific coast via rail-and-water routes through Galveston on a limited list of commodities than are applied from or to intermediate points. It is urged that the ability of the boat lines to establish and maintain rates on certain of these commodities between the two coasts that are far below the level of normal rail rates on the same traffic has been amply demonstrated by the rates maintained during the first year the Panama Canal was in operation, of which the following are representative examples.

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	High- est rate applied by boat lines.	Low- est rate applied by boat lines.		High- est rate applied by boat lines.	Low- est rate applied by boat lines.
EASTBOUND.			WESTBOUND—continued.		
Asphaltum.....	35	25	Pipe fittings.....	50	40
Barley.....	40	30	Wrought-iron pipe.....	45	30
Beans.....	40	30	Plate and sheet No. 11 and heavier.....	50	25
Canned goods.....	40	30	Plate and sheet Nos. 12 to 16.....	60	25
Dried fruit (in boxes).....	45	40	Shoes, horse, mule, or ox.....	45	25
Dried fruit (in sacks).....	50	40	Lye, concentrated.....	50	40
Wine:			Oilecloth and linoleum.....	70	50
In barrels.....	33	30	Paint in oil.....	60	50
In glass.....	55	30	Paint, dry.....	60	50
WESTBOUND.			Pulpboard boxes.....	70	50
Calcium chloride.....	45	30	Book paper, surface coated.....	55	50
Canned goods.....	55	50	News print paper.....	50	50
Green coffee.....	55	45	Building paper.....	50	50
Structural iron.....	45	25	Potassium cyanide.....	70	55
Bars, rods, etc.....	45	25	Scrap.....	50	40
Bolts, nuts, washers, etc.....	45	25	Bicarbonate of soda.....	50	40
Chain.....	55	40	Twine and cordage.....	60	50
Nails, spikes.....	45	25	Wire rope and cable.....	70	50
Wire fencing, wire nails, and wire, plain or barbed.....	60	40	Electric light cables.....	65	50

It is stated that it has been demonstrated that the boat lines can make and have made rates between the coasts very much below any scale of rates which we could require the rail carriers to maintain and these carriers now urge their right to maintain such an adjustment of rates as will keep their lines in an attitude of preparedness for the boat competition which sooner or later may be expected again to develop. It is earnestly urged that if the carriers under present circumstances are required to readjust their rates between the two coasts to a level not lower than the rates to or from intermediate points, the water lines, when the boats return to the service, will establish rates at a level that will take the traffic away from the rail lines. An application on behalf of the railroads for relief from the provisions of the fourth section as to these rates must be supported by competent proof as to the then existing competition by water alleged to make necessary the relief sought. In the natural and orderly course of procedure, several months may elapse between the time when the water competition manifests itself and the time when the rail carriers can make effective such rail rates as are necessary to meet this competition.

It is asserted that no sooner would these rates be established than the boat lines would make a further reduction sufficient to secure the traffic, whereupon the rail lines would find it necessary to make a second application involving further time during which the rail lines would be deprived of the traffic. This process might have to be repeated several times before the rates reached a level as low as the boat lines cared to make them. The objection to this course of procedure is that the rail lines would be obliged to lose the traffic

to the boats before being able to present convincing proof of the necessity for reducing the rail rates. The situation is compared with that of a merchant who is obliged to lose his business to his competitor before being able to take the proper measures to meet that competition. It is urged that a railroad should not be required to sit supinely by and see its traffic taken away before being able to take proper measures for its retention.

The carriers have framed and urged the following rules which they assert should govern us in granting relief from the long-and-short-haul rule of the fourth section :

Rule 1. Carriers shall be required to show—

(a) That proposed rates to or from the more distant points are necessitated by conditions which have not been created by the applicant carrier, are less than reasonable, and are subnormal.

(b) That such rates yield revenue in excess of the actual cost of handling the traffic upon which they are to apply, thereby adding something to the net revenue and avoiding any increased burden upon intermediate points.

Rule 2. Relief shall be granted the carriers to meet not only actual sea competition, but also potential competition which has been previously manifested and the facilities for which are still in existence although dormant at the time of the application or the hearing thereon.

Rule 3. The actual movement of a commodity by water shall determine whether it is susceptible to sea competition.

Rule 4. Rates between Atlantic or Gulf ports and Pacific ports shall be authorized which are the practical equivalent of the rates by sea, taking into account the relative cost and disabilities, i. e., accomplishing a fair equalization of the rates. The rates at intermediate points to be considered separately and without relation to the terminal adjustment.

Rule 5. Rates between interior points of origin in eastern defined territory and Pacific coast terminals shall be whatever is determined necessary to enable carriers to obtain or hold a fair proportion of the traffic, taking into consideration—

(a) The rates from principal points of origin via sea routes to destination ports;

(b) The additional charges incident to water transportation;

(c) A fair allowance for the intangible difference, if any, due to superior service;

(d) Competition of carriers from other points of origin, the rates at intermediate points to be considered separately and without relation to the terminal adjustment.

Rule 6. When the carriers shall have fully supported their fourth section applications as contemplated by the preceding rules, the Commission shall exercise the authority delegated by the fourth section to authorize the carrier to "charge less for longer than for shorter distances," and "from time to time prescribe the extent to which such common carrier may be relieved," by considering what rates in fact are justified and fixing in the determination of all applications the specific rates which shall be authorized to meet water competition without affecting the rates at intermediate points, except that the carriers shall not be permitted to exceed the combination of the authorized rate to the port plus full local rate thence to interior destination.

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Paragraphs (a) and (b) of rule 1 are in accord with principles stated and applied by us in *Fourth Section Violations in the Southeast*, 30 I. C. C., 153.

Rule 2 is of more doubtful character as a principle of action. A water service which for one cause or another has been abandoned may have been effective at some period in the past in reducing rail rates to a level lower than they otherwise would have been, but there may not be at present any likelihood of the restoration of that service although some of the facilities for the service are still in existence. The maintenance of lower rates under these circumstances to the more distant than to intermediate points may not be justified, although the lower rate when established was necessitated by the competition then existing and the higher rates to intermediate points are not unreasonable. There are so many varying circumstances which apply to situations of this kind that we are unable to subscribe to rule 2 as a fixed rule of action. We can see no reason to object to rule 3 or to rule 4 except in so far as rule 4 requires the separate consideration of intermediate and terminal rates. The business of a carrier can not usually be so separated into two parts. While it is obviously unfair to adopt the rate made to a competitive point reduced below a reasonable basis by necessity as the standard by which to measure rates to points where such necessity does not exist, it is not unfair to regard both rates to intermediate and depressed rate points together as parts of one system of rates.

It is argued by many representatives of intermediate points that carriers and this Commission should regard deviations from the fourth section as unnatural, only to be permitted where the circumstances make them necessary in order to permit free competition. A similar qualification, to wit, that rates to and from intermediate points may be reasonably adjusted as between these points and water competitive points should be applied to paragraph (d) of rule 5, and the concluding phrases of rule 6; in other words, we construe it to be our duty in acting under that clause of the fourth section which permits us "from time to time to prescribe the extent to which such common carrier may be relieved" to weigh the claims made as to the necessity for the lower rate at the more distant point, and to determine whether the rate so necessitated is in fact substantially lower than is reasonable under the transportation conditions existing. The rates to intermediate points must also be scanned at the same time to determine whether or not they are higher than the rates on the same or other similarly situated lines for like distances. It will not be possible always to reach a judgment as to the exact measure of the rates that should be applied to intermediate points, but it is possible to put such reasonable limitations upon

these rates that, considering terminal and intermediate rates together, glaring discrepancies will be avoided and all apparently undue discriminations will be prevented. This has been our conception of our power and duty under the law, and we have endeavored to act accordingly in our previous reports concerning these transcontinental rates in so far as the records furnished a basis. *Railroad Commission of Nevada v. S. P. Co.*, 21 I. C. C., 329; *City of Spokane v. N. P. Ry. Co.*, 21 I. C. C., 400; *Commodity Rates to Pacific Coast Terminals*, *supra*; *Rates on Asphaltum, Barley, Beans, and Canned Goods*, 33 I. C. C., 480.

The carriers have furnished an exhibit of carload and less-than-carload rates on approximately 200 commodities, contrasting the present rates to Spokane, Reno, and Phoenix with what are called projected rates to these points. These projected rates are obtained in the following manner: In *Commerical Club, Salt Lake City*, v. A., *T. & S. F. Ry. Co.*, 19 I. C. C., 218, we prescribed reasonable maximum class rates and maximum rates upon a large number of commodities from Chicago, Mississippi River, and Missouri River territories to Salt Lake City. In *Class and Commodity Rates to Salt Lake City*, 32 I. C. C., 551, we found that the carriers had justified certain increases in some of these class and commodity rates. In *Railroad Commission of Nevada v. S. P. Co.*, 19 I. C. C., 238, and in *Maricopa County Commercial Club v. S. F., P. & P. Ry. Co.*, 19 I. C. C., 257, we prescribed reasonable maximum class rates from transcontinental groups A-J to Nevada points and to Phoenix, Ariz. In *City of Spokane v. N. P. Ry. Co.*, 19 I. C. C., 162, we prescribed reasonable maximum class rates from Chicago, Mississippi River, and Missouri River territories to Spokane. In *Kindel v. N. Y., N. H. & H. R. R. Co.*, 15 I. C. C., 555, and *Colorado Mfrs. Asso. v. A., T. & S. F. Ry. Co.*, 28 I. C. C., 82, and 29 I. C. C., 544, we prescribed reasonable maximum class rates on the first five classes from Denver to the Mississippi River and to Chicago and from the Missouri River to Denver, and commodity rates on 88 carload commodities from Chicago, Mississippi River, and Missouri River territories to Denver. As the result of these decisions there now exist sets of class rates from various eastern territories to Denver, Salt Lake City, Reno, Phoenix, and Spokane which have been established pursuant to our orders.

There are also commodity rates from Chicago, Mississippi River, and Missouri River territories to Denver and Salt Lake City prescribed or authorized by us. The carriers have computed the projected commodity rates to Reno, Phoenix, and Spokane in two ways: First, they have taken the commodity rates to Salt Lake City, approved by us in *Class and Commodity Rates to Salt Lake* 46 I. C. C.

City, supra, and computed from them commodity rates to Reno, Phoenix, and Spokane which bear the same proportion to the commodity rates to Salt Lake City that the class rates to the three cities named bear to the Salt Lake City class rates; and, second, computation has been made using the commodity rates to Denver as a base and computing the commodity rates to Reno, Phoenix, and Spokane by multiplying the Denver rates by the percentage which the class rates to Reno, Phoenix, and Spokane bear to the class rates to Denver. The results may be illustrated as follows: The class rates from Chicago to Reno, Spokane, and Phoenix are approximately 116½ per cent of the class rates from Chicago to Salt Lake City and 184 per cent of the class rates from Chicago to Denver. The commodity rate on structural iron or steel from Chicago to Salt Lake City is 82 cents, to Denver 57½ cents. Of 82 cents 116½ per cent is 95 cents, and 184 per cent of 57½ cents is \$1.06, while the maximum rate authorized by Fourth Section Order No. 124 to these three cities is 90 cents.

On nails and wire the rate from Chicago to Salt Lake City is 79 cents, to Denver 61 cents. One hundred and sixteen and one-half per cent of 79 cents is 92 cents, and 184 per cent of 61 cents is \$1.12, while the maximum rate authorized to these cities is 90 cents. The rate on soap from Chicago to Salt Lake City is 90 cents, to Denver 67 cents, and to Reno 95 cents. The rate on building paper from Chicago to Salt Lake City is 80 cents, to Denver 53 cents, to Reno 90 cents. It will be seen that in the instances cited the rates projected to Reno, Phoenix, and Spokane by using either the commodity rates established by the Commission to Denver, or the rates so established to Salt Lake City, as bases, result in rates to Reno, Phoenix, and Spokane materially higher than the rates now existing at those points. Examination of the rates on the approximately 200 commodities shown in the carriers' exhibit discloses that in about 95 per cent of the rates shown were the rates on commodities to Reno, Phoenix, or Spokane constructed by multiplying the commodity rates to Salt Lake City by the percentage which the class rates to Reno, Phoenix, or Spokane bear to the class rates to Salt Lake City, the resulting rates to the three cities named would be materially higher than the maximum rates now applied at these points as the result of restrictions prescribed in Fourth Section Order No. 124. This exhibit is offered by the carriers for the purpose of showing that the territory intermediate to the Pacific coast cities is now enjoying a lower level of rates on most of the commodities of eastern origin than they could reasonably hope to secure upon the basis of their geographical position with respect to other points to which we have established rates upon the basis of reasonableness.

WESTBOUND COMMODITY RATES.

The present commodity rates from eastern defined territories to the Pacific coast are divided into three groups, which have been known under the designations of schedules A, B, and C. Schedule A includes commodities which either are not adapted to water transportation or which originate in territory so far removed from the Atlantic seaboard as to make their transportation by water unlikely. This list includes about 100 items, among which are the following: Threshing machines, agricultural implements, vehicles, many furniture items and fragile articles, and various products of the soil, wheat, flour, etc. Upon these items the rates to the Pacific coast points are not lower than to intermediate points, and these rates are not the subject of consideration in this report. Schedule B includes about 350 items comprising articles which are more or less adapted to water transportation and upon which the carriers have been authorized to continue rates to intermediate points higher than to the Pacific coast terminals by the following percentages: 7 per cent from points in zone 2, 15 per cent from points in zone 3, and 25 per cent from points in zone 4. The zones referred to are those described in *Commodity Rates to Pacific Coast Terminals, supra*. The list of the articles is quite general and includes certain varieties of agricultural implements, baking powder, bottles, brass and bronze goods, candles, certain mixtures of canned goods, carpets and rugs, clothing, dried fruits and vegetables, certain furniture items, and many other articles. The range of rates on the schedule B commodities varies to a large extent with the carload minimum applied. Most of the articles move on rates applicable to minima of from 20,000 to 40,000 pounds. An examination of the tariffs containing the rates on the schedule B items to north Pacific coast points from eastern defined territories shows the following:

Carload mini- mum.	Num- ber of items.	Carload mini- mum.	Num- ber of items.	Carload mini- mum.	Num- ber of items.
10,000	1	22,000	1	40,000	79
12,000	5	24,000	52	50,000	5
16,000	9	26,000	1	60,000	5
17,500	1	30,000	120	62,400	1
20,000	21	36,000	45		

It will be observed that the great bulk of the articles move under minima of 20,000, 24,000, 30,000, 36,000, and 40,000 pounds. The rates on items which take a carload minimum of 20,000 pounds vary from \$1.10 to \$2.25 per 100 pounds. Two-thirds of these items take rates to the Pacific coast of \$1.50 or less. The articles on which a carload minimum of 24,000 pounds applies take rates varying from 90 cents to \$2.30 per 100 pounds. More than 70 per cent of these rates do not

exceed \$1.50 per 100 pounds. The rates on the articles moving under a carload minimum of 30,000 pounds or more vary from 60 cents to \$2.50 per 100 pounds. There is but one item, viz, talc, on which the 60-cent rate applies from the Atlantic seaboard to the Pacific coast, but there are 16 items which move on rates as low as 75 cents per 100 pounds, and 120 items which move on rates of \$1 or less. One hundred and fifteen items move on rates varying from \$1.10 to \$1.25, while 98 items move on rates which are higher than \$1.25.

Schedule C includes articles which originate in large volume on or near the Atlantic seaboard, are particularly adapted to water transportation, and upon which the rates are relatively low. The list includes approximately 90 carload items, among which are the following: Certain mixtures of canned goods, many iron articles, nails, bolts, nuts, washers, bar iron, sheet iron, structural iron and steel, many paper articles, paints, soap, wire, rope, and telephone wire. These articles move in carloads varying from 24,000 to 80,000 pounds. Forty per cent of the items are subject to a 40,000-pound minimum, and the present rates range generally from 65 to 95 cents. Thirty per cent of the items are subject to a 50,000-pound minimum, and the rates range from 70 cents to \$1 per 100 pounds. An 80,000-pound minimum applies on 7 per cent of the items, and the rates on these items vary from 65 to 75 cents. In the appendix to this report are shown lists of all items upon which the rates to the Pacific coast are not in accord with the fourth section with rates and carload minima applicable in all instances.

ATTITUDE OF SHIPPERS IN EASTERN DEFINED TERRITORIES.

Evidence offered on behalf of shippers situated within eastern defined territories, in the main, supported the contentions of the carriers. These interests opposed any substantial increase in rates to the Pacific coast. They urge that rates to the Pacific coast should be maintained with a certain degree of stability, that men may be able to forecast the future of business conditions and that the basis of the rates so maintained may rest upon the usual and normal conditions affecting these rates and not upon the present abnormal and extraordinary conditions created by the war. Practically all of the eastern shippers urge the maintenance of the blanket rates from eastern defined territories to the Pacific coast upon the ground that the parity of rates heretofore maintained from all the great territory lying east of the Missouri River to the Pacific coast has afforded manufacturers in this territory equal opportunities to market their products upon the Pacific coast and has also afforded the coast cities the benefit of a wide market and the competition in price resulting therefrom.

CONTENTIONS OF DENVER.

Evidence and brief offered by the representative of the Transportation Bureau of the Denver Civic and Commercial Association supports the contentions of the carriers. It is urged that our fourth section orders respecting westbound transcontinental rates, placing limitations upon the rates which may be applied from eastern territory to intermountain points, have had the effect of reducing many of the rates to Utah points found reasonable by us in *Commercial Club of Salt Lake City v. A., T. & S. F. Ry. Co., supra*. In *Grand Junction Chamber of Commerce v. D. & R. G. R. R. Co.*, 23 I. C. C., 115, the Denver & Rio Grande and Colorado Midland railroads were denied authority to continue lower rates from Chicago, Mississippi or Missouri river territories to Salt Lake City than to intermediate points on these lines as far west as Grand Junction, Colo. The result of this decision and of Fourth Section Order No. 124, respecting transcontinental rates, has been to produce what may be called a plateau of rates from eastern territory to points in Colorado, Utah, and Nevada. Denver lies near the eastern edge of that plateau, and the rates from eastern territory to that point are in some instances but little less than the rates to Salt Lake City or to Reno; the former approximately 600 miles and the latter 1,000 miles west of Denver. Denver, therefore, finds her jobbing area greatly restricted, partly by reason of the facts above stated, and further by reason of the fact that on the schedule B items Denver's rates to intermountain territory are in some instances the same and in other instances not materially less than the rates from the Missouri River, which by reason of the terms of Fourth Section Order No. 124 are about 7 per cent less than the rates from Chicago. Chicago, therefore, has rates to this intermountain territory in some instances but 7 per cent higher than the rates from Denver, although the distance from Denver to Chicago is about 1,000 miles.

The representative of Denver interests in this proceeding has not asserted that the rates to Denver from eastern points are higher than reasonable, but insists that many of the rates to points west of Denver by reason of the limitations prescribed in Fourth Section Order No. 124 and other orders are less than these points could reasonably hope to secure on the basis of their geographical location and the traffic conditions of the lines by which they are served. This condition is said to result in undue prejudice to Denver.

CLAIMS OF THE PACIFIC COAST CITIES.

The representatives of the Pacific coast cities supported the request of the carriers to allow the existing rates to continue in effect to the ports. No very serious opposition was manifested to the proposed

increases on schedule C items of 10 cents in carloads and 25 cents in less than carloads. Certain witnesses expressed opinions that some of these coast rates were reasonable in and of themselves and on that account should not be increased, but little, if any, evidence was offered by the representatives of the coast cities in support of these opinions. Much was said on behalf of the coast cities against the disturbance of long standing conditions and the injury to industries and enterprises on the Pacific coast that will result from any large increases in rates to the ports. One of the industries that has assumed large proportions on the Pacific coast during the last year is that of shipbuilding. Old shipbuilding plants have been reopened and new ones constructed and extensive contracts have been entered into for the construction of many vessels, some for foreign and others for American shipowners. The steel for these merchant vessels is drawn from the east and it was testified that approximately 3,200 tons of structural steel is required for the construction of each vessel of the usual type there being built. The present rate on this commodity, which is one of the schedule C items, from Pittsburgh to the Pacific coast is 75 cents. The maximum rate authorized from Pittsburgh to intermediate points is \$1. The transportation cost for 3,200 tons of this steel under present rates is \$48,000. If the rates should be increased to the level of the rates to intermediate points, this transportation cost would be increased by \$16,000.

It is urged that the shipbuilding industry on the Pacific coast is in large part new. Its great development within the last year is due to extraordinary conditions as the result of which merchant ships command a price from three to five times as great as could have been secured for similar ships two or three years ago. It is urged that this industry at this time is not able to stand material increases in these iron and steel rates. Other industries of smaller magnitude but of importance and value showed how their interests in some instances would be jeopardized by any substantial increases in these coast rates.

The assertion is made on behalf of the coast interests that they have relied as protecting them from increases in the coast rates on that portion of the amended fourth section of the act which reads as follows:

Whenever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points, it shall not be permitted to increase such rates unless after hearing by the Interstate Commerce Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition.

This statement has no application to the schedule B rates, for these have not been reduced on account of water competition or for

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any other reason, except in isolated instances, subsequent to the approval of the amended act. Upon about 65 of the carload items in schedule C, rates have been reduced subsequent to the passage of the amended act. We do not consider the water competition between the two coasts as having been eliminated. Even if the elimination of competition by canal were considered as complete for the time being, it is not certain that the statutory provision prohibiting the increase of rates reduced to meet water competition, unless after hearing it is found that the proposed increase rests upon changed conditions other than the elimination of water competition, is applicable. The water service has suffered an interruption, however, which has already been prolonged for more than a year. Every present indication points to a continued scarcity of boats for this service as long as the war continues. The canal and the ocean are still available for commerce, and the time will come when this service will be reestablished. It is on account of the interruption to this service that we have been petitioned to reopen these applications that they may be dealt with as present circumstances warrant. As to these rates which have been reduced subsequent to August 18, 1910, in *Reopening Fourth Section Applications, supra*, we stated:

To continue rates to the coast points that are lower than are necessitated by the actual water competition and higher rates to intermediate points and to other points over similar distances under like circumstances is to perpetuate a discrimination that is unjust. The second and third sections of the act forbid all unduly preferential or unjustly discriminatory rates and practices. The portion of the fourth section above quoted does not repeal or annul any part of the second and third sections of the act to regulate commerce. If a coast point is receiving a lower rate than that to which it is lawfully entitled by the conditions there existing, it is a preference at that point that results in prejudice against higher rated points whether intermediate thereto or not. Furthermore, the primary purpose of this portion of the fourth section being to preserve and promote competition by the water carriers, it must be so construed as to give effect to that purpose. If the rail rates between the two coasts, established in the light of conditions then existing, should, through such a complete change of condition as that which has so recently come about, be now at a level so low as to make the service between the two coasts unattractive to the boat lines, should they be readjusted to a basis that will attract the water carriers back to the service and the primary purpose of the section be achieved, or should they be held at the present level and the legislative purpose to a certain extent be defeated?

The order entered in that case required the carriers to revise the rates to the Pacific coast and intermediate points on or before September 1, 1916, in such manner as to cure at least in part the discrimination then existing. All the carload rates on schedule C commodities were increased by 10 cents on December 30, 1916. Suit was filed in the United States district court for the district of Oregon by the Skinner & Eddy Corporation seeking an injunction restraining

the carriers from increasing the coast rates and restraining the Commission from enforcing the terms of its order. By decree December 29, 1916, the court denied the application for an injunction and held our order to be valid and the rates established thereunder to be lawful.

The representatives of the intermediate points in Washington, Idaho, Utah, Nevada, and Arizona are before us in this proceeding urging that the general level of rates on these articles from eastern defined territories to Pacific coast points is not unreasonably low, and that such rates may fairly be applied as maxima at intermediate points.

EVIDENCE ON BEHALF OF ARIZONA.

The complaint in No. 9278, *Arizona Corporation Commission v. A., T. & S. F. Ry. Co. et al.*, alleges that the present rates on commodities to Arizona points are unjust and unduly discriminatory as compared with rates on the same commodities applied to the Pacific coast cities. The complaint was supported by testimony and exhibits. One exhibit contained a list of about 165 commodities selected from the transcontinental tariffs showing the rates to the coast and to Phoenix in effect at the date of the hearing from transcontinental groups A, B, D, and F and the car-mile earnings upon this traffic upon the assumption that the distances from New York, Pittsburgh, Chicago, and Kansas City are representative of the distances from the groups A, B, D, and F, respectively. A second assumption is made that there is the same amount of tonnage moving under each of these items. The list embraces articles that move to the coast on rates varying from 65 cents to \$1.65 and shows many iron articles moving at relatively low rates and in large volume and certain articles of high value, light loading, and highly rated. The assumption made, therefore, that there is the same amount of tonnage moving on each item is not correct. If it were correct, however, the exhibit shows that the average car-mile earning on these items on traffic destined to the coast was 11.6 cents from group A; 13.4 cents from group B; 15.4 cents from group D; and 20 cents from group F.

Under the same assumptions, the exhibit purported to show that the average car-mile earnings on these commodities to Phoenix were 18.8 cents from group A, 20.1 cents from group B, 22.5 cents from group D, and 27.1 cents from group F. Even if the assumptions made in this exhibit were approximately correct it would be inconclusive as proving that the rates on these articles to the coast from points east of group F are reasonable and fairly remunerative, or that the rates to Phoenix from points east of group F are unreasonably high. Another exhibit contrasts the car-mile earnings in

the year 1904 on many of the items in a selected list under the then existing rates and carload minima with the car-mile earnings under the present rates and carload minima. This exhibit showed that the carload minima are now higher than in 1904, and the rates are in some instances higher and in other instances lower than in 1904, while the car-mile earnings are higher than in 1904 in numerous instances. The average car-mile earnings which are shown in the exhibit have been computed on the same assumption as heretofore stated with reference to the first exhibit, namely, that the same tonnage moved under each item.

EVIDENCE ON BEHALF OF UTAH.

The evidence presented on behalf of Salt Lake City consisted largely of carefully prepared exhibits. One exhibit showed carload rates and minima to the coast cities on about 280 items, the corresponding rates to Salt Lake City from transcontinental groups A, to F, and the divisions of the rates to San Francisco accruing to the lines both east and west of Utah common points. Another exhibit showed the carload rates from eastern defined territory to the coast cities on approximately 130 items selected from schedule B, the carload minima and earnings per car, and the divisions of these earnings accruing to the lines both east and west of Salt Lake City. Since a blanket rate applies on nearly all commodities to the Pacific coast from groups A to F, inclusive, the farther west the freight originates, the larger the earnings per car accruing to lines west of Salt Lake City. Thirty of these items apply to articles moving under a carload minimum of 30,000 pounds and on rates varying from 75 cents to \$1.75. The exhibit purports to show that the divisions accruing to lines west of Salt Lake City on a car of 30,000 pounds moving to San Francisco under a rate of \$1.25 are \$105.30, if the car originates at New York; \$141.96, if originating at Chicago; and \$180.60, if originating at Omaha. Another exhibit shows 56 commodities selected from the schedule C list, the rates to the coast effective December 30, 1916, and the carload earnings accruing to the lines both east and west of Salt Lake City. Twenty-nine of these items move under a carload minimum of 40,000 pounds.

The exhibit shows that the per car earnings accruing to lines west of Salt Lake City on a car of 40,000 pounds moving to San Francisco on a rate of 85 cents is \$94.48 if the car originates at New York; \$126.72 if it originates at Chicago; and \$167.20 if it originates at Omaha. Other exhibits showed examples of less-than-carload rates to the coast on items selected from schedules C and B, the rates to Salt Lake City on the same articles and the amounts by which these rates exceed the rates to the coast. Another exhibit showed certain carload and less-than-carload rates from

Missouri River, Denver, and Salt Lake City to San Francisco on a limited list of articles. On a number of these articles the rates from Denver were lower than from Salt Lake City. Such rates are in violation of the long-and-short-haul rule of the fourth section and are not protected by any application filed with us. The carriers signified their intention to correct these departures from the fourth section by publishing rates from Salt Lake City not higher than the rates contemporaneously in effect from Denver.

Representatives of Salt Lake City urge that it is approximately 800 miles east of the Pacific coast; that the car-mile earnings which the carriers receive on this traffic from eastern defined territories to the Pacific coast, as a whole, if not fairly remunerative are very nearly so; and that it necessarily follows that when the same rates are applied to Salt Lake City for the shorter haul, the revenues are fairly remunerative. It is further urged that, as the rates from the transcontinental groups are divided by the carriers between themselves, the carriers east of Chicago receive the same revenue on a car destined to Salt Lake City as to San Francisco, except in the few instances where the rates from New York or Pittsburgh to the Pacific coast are less than 75 cents. The carriers east of Chicago perform the same service on business originating in territory east of Chicago when the car goes to Salt Lake City as when it is destined to San Francisco, but the carriers west of Chicago perform a less service on business destined to Salt Lake City and exact the same divisions on commodities taking terminal rates to Salt Lake City, and higher divisions on all commodities that take higher than terminal rates.

We are not particularly concerned in these proceedings with the divisions which any of the carriers secure out of this traffic. Our concern is with the following issues: Are the lower rates to the coast cities necessitated under present conditions? Are they in all instances necessitated under normal conditions or such conditions as existed for the first year after the opening of the Panama Canal? Are they less than normal or fairly reasonable? Are the rates to intermediate points unduly prejudicial? If higher rates than are applied to the coast must be permitted at intermediate points, should such rates be applied on all articles listed under schedules B and C? If higher rates are permitted to intermediate points than to terminals on certain articles, should such higher rates be permitted as far east of the coast cities as Salt Lake City?

EVIDENCE OFFERED BY NEVADA.

Evidence offered on behalf of the Nevada Railroad Commission showed a careful study of the rates and car-mile earnings on business moving to Reno and to San Francisco. An exhibit was intro-

duced showing that the total freight received from the east at Reno during the year 1908 amounted to 22,295,056 pounds. Of this 13,263,576 pounds consisted of schedule A commodities, upon which the rates to Reno are not higher than to the coast terminals; 4,179,084 pounds consisted of schedule B commodities, and 4,852,396 pounds consisted of schedule C commodities. Of this total tonnage coming to Reno from the east during the year named the receipts from the various transcontinental groups A to J were as follows: From group A, 992,242 pounds; group B, 1,075,570 pounds; group C, 2,683,767 pounds; group D, 4,834,927 pounds; group E, 2,904,422 pounds; group F, 4,403,358 pounds; group G, 4,193,380 pounds; group J, 1,208,390 pounds. Another exhibit showed 46 apparently representative commodities selected from the schedule C list. Upon these commodities the car-mile earnings on traffic to Reno and San Francisco were computed upon the supposition that these cars moved from New York, Pittsburgh, Cincinnati, Chicago, St. Louis, and Kansas City. In this exhibit, as in others, the assumption was indulged that the same number of cars move under each item. On this assumption the following table has been constructed from the computations of the witness:

Results of the computations made as to the rates and per car-mile earnings on 46 selected commodities taken from schedule C. Average rates and car-mile earnings are computed on the assumption that there is the same amount of one commodity as of another.

From—	Average carload.	Average rate to coast.	Average rate to Reno.	Average car-mile earnings on traffic to coast.	Average car-mile earning on traffic to Reno on pres- ent rates.	Average car-mile earning that would result on traffic to Reno if terminal rates were applied.
	Pounds.	Cents.	Cents.	Cents.	Cents.	Cents.
New York.....	47,283	89.1	115.1	13.08	18.4	14.15
Pittsburgh.....	47,283	88.5	105.1	15.01	19.75	16.47
Cincinnati.....	47,283	88.5	105.1	16	21.19	17.67
Chicago.....	47,283	85.9	95	17.43	22.09	19.32
St. Louis.....	47,283	85.9	95	18.02	22.93	20.26
Kansas City.....	47,283	85.9	80	20.02	21.71	22.83

There is a slight error in the average rate and car-mile earnings shown from New York for the reason that the witness was apparently under the impression that the increased rates to coast points, effective December 30, 1916, applied from all territories and on all items. There are certain iron articles in the list that formerly took a rate of 55 cents from Chicago, 65 cents from Pittsburgh, and 75 cents from New York. Upon these articles the rates were increased from Pittsburgh and points west, but were not increased

from New York. The effect of this misconception, however, would be small on the stated average rates and car-mile earnings from New York and has no effect upon the rates and earnings from other territories. The witness contrasts these average car-mile earnings with the average car-mile earnings upon all carload traffic on the following-named railroads for the years indicated:

Railroad.	Year ending June 30—	Earnings per loaded car.
Pennsylvania R. R.	1914	Cents. 16.35
Chicago & North Western.....	1914	15.97
Union Pacific Company.....	1914	15.45
Southern Pacific Company.....	1914	20.50
Southern Pacific Company.....	1916	20.08
Southern Pacific Company in Nevada.....	1916	16.90

We show below the average car-mile earnings of all carload traffic and the average carload of revenue freight on some of the western railroads for the year ending June 30, 1916, as taken from the annual reports filed with this Commission:

Name of road.	Average revenue per loaded car per mile.	Average load.
YEAR ENDING JUNE 30, 1916.		
Atchison, Topeka & Santa Fe.....	Cents. 16.52	Pounds. 34,280
Chicago, Milwaukee & St. Paul.....	13.58	35,880
Colorado Midland.....	23.68	26,900
Denver & Rio Grande.....	24.46	44,780
Great Northern Ry. Co.....	17.62	45,740
Oregon Short Line R. R.....	20.31	48,240
Oregon-Washington R. R. & Nav. Co.....	21.88	43,680
Northern Pacific Ry. Co.....	16.52	41,680
San Pedro, Los Angeles & Salt Lake R. R. Co.....	22.59	37,920
Southern Pacific Co.....	20.08	39,640
Spokane, Portland & Seattle Ry. Co.....	20.76	39,840
Union Pacific R. R. Co.....	15.87	35,760
Western Pacific Ry.....	14.25	41,940

Examining the average carloads on the Atchison, Topeka & Santa Fe, the Chicago, Milwaukee & St. Paul, Northern Pacific, Great Northern, Union Pacific, and Southern Pacific, it will be seen that their average load is approximately 39,000 pounds, as compared with the average load of the 46 commodities shown of 47,283 pounds. These carloads shown in the exhibit are evidently about 20 per cent heavier than the average carloads on these great systems. The average car-mile revenue on the same systems is very nearly 16.6 cents on all traffic. This total traffic is made up of a great variety of articles, grouped under the following five general headings: Products of mines, products of forests, products of agriculture, products of animals, manufactures.

We show below the report of the Northern Pacific Railway Company for the year ending June 30, 1916, showing the respective tonnages hauled that year and the articles coming under these various groups:

Commodity.	Tons (2,000 pounds each) of revenue freight originating on respondent's road.	Tons (2,000 pounds each) of revenue freight received from connecting carriers.	Total revenue freight carried.	
			Tons (2,000 pounds each).	Per cent of whole.
Products of agriculture:	<i>Number.</i>	<i>Number.</i>	<i>Number.</i>	
Grain.....	2,981,287	484,186	3,465,473	16.36
Flour.....	392,401	12,125	404,526	1.93
Other mill products.....	187,088	81,821	219,469	1.06
Hay.....	242,129	16,883	259,012	1.24
Tobacco.....	113	667	780	.....
Cotton.....		29,371	29,371	.14
Fruit and vegetables.....	644,671	109,251	653,922	3.11
Other products of agriculture.....	152,771	49,529	202,300	.96
Total products of agriculture.....	4,500,910	703,842	5,204,752	24.79
Products of animals:				
Live stock.....	264,830	58,545	303,375	1.44
Dressed meats.....	17,262	10,468	27,730	.13
Other packing-house products.....	7,620	9,474	17,094	.08
Poultry, game, and fish.....	48,680	4,378	52,958	.25
Wool.....	6,956	2,092	9,048	.05
Hides and leather.....	5,468	711	6,179	.03
Other products of animals.....	24,026	7,450	31,476	.15
Total products of animals.....	374,742	78,718	453,460	2.13
Products of mines:				
Anthracite coal.....	454,688	8,783	463,471	2.21
Bituminous coal.....	1,262,220	908,835	3,159,055	15.06
Coke.....	113,412	75,811	189,223	.90
Ores.....	1,012,720	82,084	1,105,654	5.27
Stone, sand, and other like articles.....	811,250	113,115	929,365	4.42
Other products of mines.....	381,088	77,904	458,940	2.18
Total products of mines.....	5,025,326	1,280,412	6,305,738	30.66
Products of forests:				
Lumber.....	5,054,485	490,188	5,544,673	26.41
Other products of forests.....	292,197	176,189	468,386	2.23
Total products of forests.....	5,347,592	666,377	6,013,969	28.64
Manufactures:				
Petroleum and other oils.....	112,852	81,547	194,399	.93
Sugar.....	31,372	28,814	60,186	.28
Naval stores.....	9,555	846	10,401	.05
Iron, pig and bloom.....	43,554	20,533	64,137	.31
Iron and steel rails.....	1,358	25,481	26,839	.13
Other castings and machinery.....	61,130	121,278	182,408	.87
Bar and sheet metal.....	8,340	44,588	52,928	.25
Cement, brick, and lime.....	238,265	159,866	398,131	1.93
Agricultural implements.....	28,649	28,351	57,000	.27
Wagons, carriages, tools, etc.....	2,660	45,327	47,987	.23
Wines, liquors, and beers.....	38,262	25,824	64,086	.30
Household goods and furniture.....	18,129	18,065	36,194	.17
Other manufactures.....	202,709	258,168	460,877	2.20
Total manufactures.....	891,835	854,720	1,746,555	8.33
Miscellaneous commodities not specified above (carload rates).....	263,882	115,980	379,843	1.81
L. o. l. goods not distributed above.....	746,731	149,645	896,376	4.27
Grand total, all commodities.....	17,151,019	3,844,674	20,995,693	100.00

It will be noted that 28.64 per cent of the tonnage hauled was forest products, consisting mainly of lumber; 30.03 per cent consisted of 46 I. C. C.

coal, coke, stone, sand, and other like articles; 24.79 per cent were products of agriculture, mainly grain; and 8.83 per cent was traffic in manufactured articles. The 46 articles shown in the Nevada exhibit are the following: Bags and bagging; calcium, carbide of; calcium, chloride of; green coffee; cotton factory sweepings; cotton piece goods; insulators, terra cotta, etc.; telegraph, telephone, and electric pole material; lawn mowers, hand; sledges, wedges, and mauls; hemp, sisal, etc.; structural iron; bar iron; shafting, etc.; billets, blooms, etc.; butts and hinges; castings, n. o. s.; cylinders, wrought; lathing; woven wire, etc.; nails, horseshoe; pipe fittings and connections; pipe, cast iron; pipe, wrought iron; wine; oils, petroleum; oil, linseed; oil cloth, linoleum, etc.; paper, adding machine, etc.; paper, bags and barrel lining; paper, wall; paper, wrapping, not printed; potassium and sodium, cyanide of; roofing, prepared; sadirons; soda, bicarbonate of; starch and dextrine; radiators; stove pipe, iron; tacks, iron, etc.; tile, marble, or slate; tin andterne plate; twine and cordage; wire fencing; wire rods; wire telephone or electric light cables; and zinc spelter. These are practically all manufactured articles, higher valued and almost uniformly the country over higher rated than are the products of the mines, forests, or agriculture.

We are placing in parallel columns the average loads, average car-mile earnings, average hauls, and the character of traffic on these systems as a whole, and similar quantities respecting these 46 commodities when hauled to San Francisco or to Reno. From these comparisons we are asked to conclude that the rates and car-mile earnings to San Francisco on these commodities are not unreasonably low; and to conclude also that the rates and car-mile earnings to Reno are unreasonably high:

Average for systems of western roads. Atchafson, Topeka & Santa Fe; Chicago, Milwaukee & St. Paul; Great Northern; Northern Pacific; Southern Pacific; Union Pacific.	Average to San Francisco, Cal.	Average to Reno, Nev.
Average haul, 262 to 534 miles.	Average haul from— Miles. New York..... 3,180 Pittsburgh..... 2,730 Cincinnati..... 2,670 Chicago..... 2,370 St. Louis..... 2,195 Kansas City..... 1,976	Average haul from— Miles. New York..... 2,937 Pittsburgh..... 2,496 Cincinnati..... 2,327 Chicago..... 2,027 St. Louis..... 1,953 Kansas City..... 1,733
Average carload, approximately 30,000 pounds.	Average carload, pounds.. 47,283	Average carload.. pounds.. 47,283
Average freight revenue per loaded car per mile, approximately 16.6 cents.	Average per car-mile from— Cents. New York..... 13.08 Pittsburgh..... 15.01 Cincinnati..... 16.00 Chicago..... 17.43 St. Louis..... 18.02 Kansas City..... 20.02	Average per car-mile from— Cents. New York..... 18.40 Pittsburgh..... 19.75 Cincinnati..... 21.19 Chicago..... 22.09 St. Louis..... 22.98 Kansas City..... 21.71
Character of traffic: All carload freight traffic.	Character of traffic: 46 commodities classed as manufactures.	Character of traffic: 46 commodities classed as manufactures.

The evidence also shows that for the year 1914 four systems, the Pennsylvania, Chicago & North Western, Union Pacific, and Southern Pacific, had an average earning per freight-train mile of \$4.01 and an average load per train of 542.35 tons. If an average trainload were made up of these 46 commodities and hauled to Reno under present rates the revenue per train-mile would be from New York, \$4.26; from Pittsburgh, \$4.57; from Cincinnati, \$4.90; from Chicago, \$5.08; from St. Louis, \$5.28; from Kansas City, \$5.01. We are asked to conclude that these train-mile earnings are unreasonably high. If hauled to San Francisco under present rates the train-mile earning would be as follows: From New York, \$3.04; from Pittsburgh, \$3.50; from Cincinnati, \$3.74; from Chicago, \$4.10; from St. Louis, \$4.24; and from Kansas City, \$4.71. We are asked to conclude that these train-mile earnings are not unreasonably low. If present terminal rates were applied at Reno the train-mile earnings would be on a train of average size of these 46 commodities:

From—

New York.....	\$3.29
Pittsburgh.....	3.85
Cincinnati.....	4.12
Chicago.....	4.60
St. Louis.....	4.77
Kansas City.....	5.37

We are asked to conclude that these train-mile earnings are reasonable.

The brief for the Railroad Commission of Nevada also calls attention to exhibits filed in 1908 in *Railroad Commission of Nevada v. S. P. Co.*, *supra*, purporting to show that the portion of the haul on transcontinental traffic from Reno to San Francisco, being in part mountainous, is proportionately more expensive than other portions of the haul east of Reno, and that the earnings on transcontinental traffic destined to Nevada points would, if terminal rates were effective at such points, produce reasonable returns to the carriers on the portion of their property assignable to that traffic.

SPOKANE EVIDENCE.

The evidence on behalf of the city of Spokane included a list of 31 commodities selected from schedule C showing the rates to the coast and Spokane prior and subsequent to the effective date of our order with respect to these commodities. It appears that although the rates on these commodities to the coast and to Spokane were at that time materially reduced, the disparity between the rates to the coast and to Spokane was increased in the instances shown. One exhibit contains an analysis of the schedule C rates, showing the rate on each item from the various transcontinental groups to Spokane and to the coast, the carload minimum and

through revenue per car accruing to lines east of Chicago, to the lines between Chicago and St. Paul, and to lines west of St. Paul, and show also the car-mile and ton-mile revenues received by the lines west of St. Paul on these commodities moving to the coast or to Spokane. Here, as in the exhibits offered by the Arizona and Nevada representatives for the purpose of determining the average car-mile and ton-mile earnings on this traffic, the assumption is made that the same number of carloads move of each item. Upon this assumption the average car-mile earning received by the lines west of St. Paul on the schedule C commodities moving to Spokane is 26.5 cents and the average ton-mile earnings 11.3 mills. The average car-mile earnings to the coast are computed to be 15.7 cents and the average ton-mile earnings 6.7 mills. Another exhibit was constructed to show the same quantities, namely, rates, through revenue per car to lines east of Chicago, revenue per car to lines between Chicago and St. Paul and to lines west of St. Paul, and the ton-mile and car-mile earnings on lines west of St. Paul, upon the assumption that the present coast rates should be applied at Spokane. The exhibit purported to show that the lines west of St. Paul now secure on traffic to the coast a revenue of 17.4 cents per car-mile and 7.6 mills per ton-mile and would secure on Spokane traffic an average revenue of 21.8 cents per car-mile and 9.4 mills per ton-mile on these commodities, if the coast rates were applied to Spokane. Another exhibit presented a similar analysis of the schedule B carload items purporting to show that the present average car-mile and ton-mile earnings accruing to lines west of St. Paul on this traffic to Spokane average 23 cents per car-mile and 15.1 mills per ton-mile; average to the coast, per car-mile, 16 cents; per ton-mile, 10.4 mills. Other exhibits were introduced to show the importance of Spokane and adjacent territory as a distributing and consuming center and the distance to which Spokane is now distributing certain articles in competition with the coast.

EVIDENCE OF THE IDAHO PUBLIC UTILITIES COMMISSION.

The evidence on behalf of the Idaho Public Utilities Commission shows that for the year ending June 30, 1915, there originated on the railroads in Idaho 6,080,076 tons of freight, divided as follows:

Products of—	
Agriculture.....	1, 190, 199
Animals.....	231, 565
Mines.....	1, 661, 984
Forests.....	2, 226, 320
Manufactures.....	395, 007
Miscellaneous.....	108, 800
L. c. l.....	221, 701
Total.....	6, 080, 076

The tonnage hauled by the railroads in Idaho during that year was 12,880,350 tons, of which, as stated, a little more than 6,000,000 tons originated in the state. The exhibits filed showed the basis for the construction of the rates to points in Idaho, on direct lines to the Pacific coast and on branch lines. It appears that the rates on both schedule B and C commodities to points in Idaho that are intermediate to Pacific coast terminals are in most instances the maximum rates authorized by us in our Fourth Section Order No. 124, while the rates to branch-line points or to points not intermediate to coast terminals are often made arbitraries or locals higher than the rates to junctions. It is shown also that while the maximum rates authorized to intermediate points have in some instances been reduced at Spokane and at La Grande, Oreg., by combinations on the coast, such combinations have not affected the rates to Idaho points.

CARRIERS' REBUTTAL.

An exhibit introduced by the carriers in rebuttal shows as to 11 representative schedule B items and 14 schedule C items, that if the present coast rates were applied to intermediate points thereon the rates from the various transcontinental groups would be reduced to all intermediate points west of certain named stations on the articles named. We give below the rates to the coast in effect prior to December 30, 1916, from eastern defined territories on 16 of these commodities and the most easterly points in Minnesota, North Dakota, or Montana at which the coast rate from New York and Chicago was exceeded.

The reduction of rates to intermediate territory to the level of the coast rates in effect prior to December 30, 1916, shows:

Rates from New York reduced to all stations west of—	Rates from Chicago reduced to all stations west of—	Commodity.	Coasted rate to coast.
Fridley, Minn.....	Mapleton, N. Dak.....	Carpeting.....	\$1.25
Randall, Minn.....	Crystal Springs, N. Dak.....	Clothing.....	1.50
Ourlow, N. Dak.....	Billings, Mont.....	Furniture.....	1.10
Royalton, Mont.....	Sims, N. Dak.....	Liquors.....	1.25
Wibaux, Mont.....	Billings, Mont.....	Hand pumps.....	1.10
Custer, Mont.....	Lothrop, Mont.....	Stoves.....	1.50
Magnolia, N. Dak.....	Sully Springs, N. Dak.....	Canned goods.....	.75
East of St. Paul.....	Darling, Mont.....	Dry goods.....	.90
Oriska, N. Dak.....	Mandan, N. Dak.....	Structural iron.....	.75
Do.....	do.....	Bar iron.....	.75
Do.....	do.....	Nails and wire.....	.75
Stanny, N. Dak.....	Ferry, Mont.....	Petroleum oils.....	.90
Packham, Minn.....	Bismarck, N. Dak.....	Oilcloth.....	.75
Sweet Briar, N. Dak.....	Butte, Mont.....	Building paper.....	.75
Magnolia, N. Dak.....	Sully Springs, N. Dak.....	Paint.....	.75
Elkridge, N. Dak.....		Soap.....	.80

For the months of January, April, July, and October, 1916, the tonnage originating on and east of the west boundary of transcontinental group F, as described for traffic to California terminals, in 46 I. C. C.

Commodity Rates to Pacific Coast Terminals, supra, and moving to Pacific coast ports and intermediate territory was as follows: To Pacific ports, domestic 506,730 tons, export 240,191 tons. To points in the states of New Mexico, Colorado, Utah, Arizona, Nevada, Montana, Idaho, Wyoming, and to nonterminal points in California, Oregon, and Washington, 998,104 tons. This shows that the tonnage originating in transcontinental groups A to F and moving to the higher rated intermediate territory, of these western states, is approximately double the domestic tonnage moving to the Pacific coast ports.

It is evident that if it should be concluded that the present rates to the Pacific coast terminals on all these commodities are sufficiently remunerative and should be applied as maxima at intermediate points, the result would be far-reaching. The rates from the Missouri River on 18 items covering many iron articles would be reduced from 75 to 65 cents to a large part of the intermediate territory. The rates from Chicago and points east thereof on all the articles in both schedules B and C would be reduced to a large part of the territory in the states of Washington, Oregon, Idaho, Montana, Utah, Nevada, Colorado, New Mexico, Arizona, and California by amounts which on the schedule C list vary from 15 to 45 cents and on the schedule B items from 5 to 74 cents. The proof submitted by the carriers of rates on these commodities to Spokane, Reno, and Phoenix, constructed in proportion to the rates found reasonable by us at Salt Lake City and Denver, shows that the present level of rates on many commodities to the coast is materially lower, distance considered, than the rates established by us to the points above named. The proof submitted by the Arizona commission as to the 165 selected commodities purporting to show that the average car-mile earnings on these commodities when moving to the coast under the rates in effect prior to December 30, 1916, were 11.6 cents if the freight originated at New York, 13.4 cents if originating at Pittsburgh, 15.4 cents if originating at Chicago, and 20 cents if originating at Kansas City, tends to prove that the rates then existing from the territory east of Kansas City were in fact unreasonably low because they yielded a lower car-mile revenue on these manufactured articles than the average carload earnings of these railroads from all freight. It should be remembered, however, that the increases in the schedule C carload rates, effective December 30, 1916, would, if carried into the computations, have materially increased all of the average car-mile earnings shown.

The proof offered by the Nevada commission with respect to the average car-mile earnings on 46 selected commodities taken from the

schedule C list purporting to show that these average car-mile earnings under the present rates on business destined to the coast are, from New York, 13.08 cents; from Pittsburgh, 15.01 cents; from Cincinnati, 16 cents; from Chicago, 17.43 cents; from St. Louis, 18.02 cents; from Kansas City, 20.02 cents; also supports the contention of the carriers that these schedule C rates from territories at least as far west as Chicago are unreasonably low. In the proof offered by the intermediate territory, represented by Salt Lake City, the city of Spokane, and the railroad commissions of the states of Arizona, Idaho, and Nevada, to the end of showing that the rates to the coast cities were not unreasonably low, no set of rates taken from any other great system of rates was offered for comparison. Examples of rates to Fort Worth, Tex., Denver, and Salt Lake City, from all defined territories were offered by the carriers for the purpose of showing that, distance considered, the rates to the Pacific coast cities are less than normal and that the rates to intermediate points are in many instances less than they reasonably might be. While we are convinced that considering all of these rates together from the defined territories east of the Missouri River to the Pacific coast, they may be fairly considered as subnormal, we are impressed with the fact that some of them are not so low as to necessitate any fourth section relief and that other articles do not originate in large volume at points on or near the Atlantic seaboard and have not been seriously affected by water competition.

In our former reports respecting these transcontinental rates we proceeded upon the information then of record to make such disposal of the issues involved as the existing circumstances appeared to warrant. The applications sought relief as to all commodities and the evidence offered in 1911 in support thereof made no attempt to segregate the commodities moving from eastern territory to the Pacific coast into two classes. The evidence was very general, and we dealt with the rates involved as a whole. The order issued respecting the schedule B commodities therefore permitted the carriers to maintain higher rates to the interior than to the Pacific coast on all commodities originating east of the Missouri River, irrespective of their character, adaptability to conveyance by water, particular points of origin, or the rates applied. It followed as a natural consequence that on some of these commodities relief from the fourth section was authorized where none was necessary. It also probably followed that a less degree of relief was afforded on some commodities than the actual circumstances surrounding that particular traffic justified.

In the evidence offered in 1914, after the opening of the Panama Canal, the carriers undertook to show as to each article concerning which relief was sought that it was adapted to water transportation;

that it originated in large volume on the Atlantic seaboard; that the rate sought to be established was necessary to meet the actual competition existing; and that the rate so necessitated was relatively low considering the character of the traffic and the length of haul involved. Subsequently applications were made for special relief as to the rates on a large number of other commodities. The relief sought by these applications was opposed by the representatives of the American-Hawaiian and Luckenbach steamship companies. At hearings concerning these applications in which representatives of the steamship lines participated, evidence was taken concerning the commodities involved, their points of origin, adaptability to conveyance by water, and the rates applied by the water lines. The evidence taken at all these hearings, by stipulation of counsel, has been made available for use in the disposal of the issues here. It seems clear that we should now seek to outline the main features of an adjustment of rates on these commodities from eastern defined territories to this western section of the United States that will in our view be justified under present conditions and that may in large part be undisturbed by any conditions that may again exist when the ships return to the coast to coast traffic.

The carriers call attention to our conclusions in *Fourth Section Violations in the Southeast, supra*, with respect to the applications of the Illinois Central Railroad and other carriers for authority to continue lower rates from the Ohio River crossings to New Orleans and other Mississippi River cities than to intermediate points. Although, as stated in the report, there were no regular lines of steamboats plying between New Orleans and the Ohio River crossings, we authorized the carriers to continue the rates then current to New Orleans and higher rates to intermediate points. The situation then and there existing was unlike the one with which we are here and now confronted. The rates from the Ohio River cities and from St. Louis to New Orleans had been in effect for many years, and as against these rates the water lines had continued to compete for business with the rail lines for more than 10 years, and only ceased to operate regular service when a large portion of the fleet engaged in the business was destroyed by storm. Boats were in operation at the time of making the order in that case, and, so far as we are advised, are in operation still, between New Orleans and Vicksburg, between Vicksburg and Memphis, between Memphis and St. Louis, and between the Ohio River cities and St. Louis. A barge line had just been organized to carry cement from Missouri River points to New Orleans. Each year at high water in the Ohio River a great fleet of barges is sent down the river from the vicinity of Pittsburgh to New Orleans loaded with

coal, iron articles, and other commodities which are warehoused in cities along the river and distributed as demand arises. The amount of tonnage so moved yearly was estimated to be in the neighborhood of a million tons. There was then no great outside demand for boats and no reason was shown for believing that the regular service on the Mississippi River might not be resumed at almost any time. Furthermore, no intermediate interest intervened and showed or sought to show that it had been or would be adversely affected by the relation of rates then existing. Purchasing boats for river use and organizing the service on the Mississippi River is a matter far more simple and inexpensive than organizing a regular service between the coasts of the United States capable of exercising a material influence upon the rail rates. The evidence given with respect to the fourth section applications of the Southern Pacific Company seeking authority to establish low rates on iron articles from Atlantic seaboard points via Galveston to the Pacific coast showed clearly that during the first year of operation of the Panama Canal an increasingly large proportion of the business of the water lines was done by the strongly organized steamship companies, the American-Hawaiian Steamship Company, Luckenbach Steamship Company, and Grace & Company. It was to meet this highly organized, financed, and well-equipped steamship service that the applications were made. What is the present situation? While these steamship companies are in existence their fleets are in large part occupied with carrying freight between the east coast of the United States and foreign countries, and at rates which are so much higher than can be secured between the two coasts of the United States as to make that service unattractive. The enormous amount of shipping that has been destroyed and the great demand for ships on account of the internment of some and the use of many others for purposes connected with the prosecution of the war have created an actual present world shortage of ocean-going steamships. The situation therefore now existing with respect to this coast to coast business is utterly unlike that which existed on the Mississippi River in the years 1913 and 1914, when the report in *Fourth Section Violations in the Southeast* was under consideration.

The arguments advanced by the representative of the steamship lines and by some, but by no means all, of the representatives of the intermediate territory, urge that the policy of the Commission hitherto consistently followed of allowing the rail carriers to reduce their rates to water competitive points to a level lower than to intermediate points in order to permit the rail carriers to compete for the traffic with water carriers is against the public interest, because

it tends to reduce the profits of the water carriers and the number of ships which would otherwise engage in the traffic. This argument is not new. In *Commodity Rates to Pacific Coast Terminals*, 82 I. C. C., 611, we stated:

It has been suggested that the construction of the Panama Canal by the government of the United States is indicative of a governmental policy to secure all of this coast to coast business for the water lines, and that no adjustment of rates by the rail lines should be permitted which will take away traffic from the ocean carriers which normally might be carried by them. This suggestion, however, loses force under the consideration that the Panama Canal is but one of the agencies of transportation that the government of the United States has fostered between the Atlantic coast and the Pacific. The government has from the beginning of railroad construction in the United States encouraged their construction and operation by private capital and enterprise. Some of these transcontinental lines would not have been built had it not been for the liberality the government extended to them at the time of their construction. As we view it, the Panama Canal is to be one of the agencies of transportation between the east and the west, but not necessarily the sole carrier of the coast to coast business. If the railroads are able to make such rates from the Atlantic seaboard to the Pacific coast as will hold to their lines some portion of this traffic with profit to themselves, they should be permitted so to do. The acceptance of this traffic will add something to their net revenues, and to that extent decrease, and not increase, the burden that must be borne by other traffic. It will also give the shippers at the coast points the benefits of an additional and a competitive service.

The argument advanced by the water lines, if carried to its logical conclusion, means in effect that all traffic which may be hauled by water carriers should be reserved for their exclusive handling. The rail carriers can not maintain, under ordinary circumstances, a level of rates between the Atlantic and Pacific coasts, between the north Atlantic ports and ports on the south Atlantic or Gulf coast or between points on the Pacific coast that will be successful in securing any considerable amount of traffic in competition with water carriers without fourth section relief. We are of the opinion that the best interests of the public, of the transcontinental carriers, and of these intermountain cities in particular, will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. The lower rates to the ports, however, when necessary, must not be lower than the competition of the boats makes necessary, and must be high enough to cover, and that by a safe margin, actual out of pocket costs of securing and handling the traffic. The shippers at the coast are thereby given the benefit of competing routes and competing markets of supply. The railroads are enabled to fill up their trains with traffic which, although not highly profitable, yields a revenue materially greater than the out of pocket costs of securing and handling the traffic, thereby adding to the net revenues of the carriers

and to that extent lightening the transportation burden borne by other localities.

These transcontinental railroads can fairly expect such consideration as will permit them to continue to earn a reasonable return upon their property devoted to public use. If governmental control is so exercised as to prevent them from securing any considerable share of the business to and from the terminals and the largest possible return therefrom, such return must be derived from the other communities along their lines. It is perfectly clear that the Pacific coast cities have always paid lower transportation rates than they would have paid were it not for the facilities they have enjoyed for bringing manufactured articles from the eastern manufacturing districts and for sending east the products of the coast states by water. It is also clear that the intermountain section of the country has paid and now pays rates for the transportation of these manufactured articles which are higher proportionately than is paid by the coast cities and probably higher than it would be necessary to maintain if the rates to the coast cities could be maintained at a level more nearly proportionate to the service given.

The situation, however, is one which these carriers can not control. The advantage enjoyed by these Pacific coast cities is in the long run a permanent advantage. A war of unparalleled extent, drawing into its service a great part of the shipping of the world, has for the time being deprived these cities of the advantage of any substantial degree of water service. The present conditions admittedly are not normal. It is very earnestly urged that these abnormal conditions, however, are temporary and that the long standing commercial conditions should not now be disturbed by any material increase in the coast rates. The present conditions may be temporary as measured by the period of years during which these transcontinental railways have been built, but it is not apparent that the conditions are temporary in that within any known period of time they will have passed away. Under the present circumstances the maintenance of these lower rates to coast points and higher rates to intermediate points is unduly preferential to the coast points and unduly prejudicial to intermediate points.

We are of opinion that all these rates in schedules B and C to the Pacific coast should be now realigned to accord with the long-and-short-haul rule of the fourth section. In this realignment regard should be had for the conditions now existing, but the conditions that have existed and may again exist should not be forgotten. The rates to all the interior states of Arizona, New Mexico, Nevada, Utah, Wyoming, Idaho, Colorado, and Montana, as well as to the Pacific

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coast states of California, Oregon, and Washington, should be adjusted at this time as fully as now can be determined, with especial reference to meeting all the requirements of sections 1, 3, and 4 of the act. The facts before us do not admit of such a finding as is sought by the carriers, the coast cities, and the eastern shippers, namely, that present conditions justify lower rates to the coast cities than to intermediate points. Neither do the facts altogether admit of such a finding as is sought by the representatives of the intermountain states, namely, that all of these rates to the Pacific coast cities are in and of themselves reasonable and fully remunerative. Some of these rates from eastern territories to Pacific coast terminals are unreasonably low, judged by the standards of car-mile or ton-mile earnings that have been offered for comparison or the rates which we have established on like commodities on these and other lines in many cases. Some of the rates are not unreasonably low, and no relief should be granted as to the rates on such commodities even under conditions similar to those which existed the year following the opening of the canal. There are, as stated, other commodities upon which the rates as a whole are unreasonably low from some of the eastern territory, particularly from transcontinental groups A, B, C, and D, as evidenced by the car-mile and ton-mile earnings and other comparisons offered. The rates on many of these commodities to the coast cities in the past have been influenced by the rates afforded by the water lines. These water rates have been variable. Under these circumstances some of the rail rates to the coast points are in the nature of things subject to variation. The essential justification for lower rates to a more distant point than to an intermediate point is the existence at the more distant point of depressed rates, which the carrier is powerless to affect, and failure to meet which would prevent the carrier from participating in the traffic to the more distant point. That necessity as to some of these rates has existed in the past and may again exist. While there is good reason for a certain variation in the rates to the coast points there is no necessity or justification for such variation in rates to the points so far inland that they are not affected by combination on the coast. The rates to the greater part of this intermediate territory should not now be made to depend upon or vary with the coast rates. In *Railroad Commission of Nevada v. S. P. Co.*, and *City of Spokane v. N. P. Ry. Co.*, *supra*, we proceeded in the light of the evidence then before us relating to the water competition to authorize the carriers to establish rates from Chicago, Pittsburgh, and New York to intermediate territory 7, 15, and 25 per cent, respectively, higher than the rates

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contemporaneously applied to the coast. The evidence then offered afforded no basis for concluding that it would ever be necessary for the rail carriers to establish such a low level of rates between the two coasts as they have sought authority to establish on many articles since the opening of the Panama Canal. The total tonnage of the schedule C articles that originated in transcontinental groups A and B and moved thence via rail or water to Pacific coast terminals in the calendar year 1913 was 961,768 tons. During the year following the opening of the Panama Canal the westbound tonnage secured by the water lines was 951,044 tons. The range of rates applied by the water lines shown in the preceding pages of this report, the applications and proof offered in their support by the rail lines during 1915 for authority to meet these rates, and the volume of tonnage secured by the water lines evidence the compelling nature of the competition with which the railroads have been and may be again confronted as to many of the articles that originate in territory contiguous to the Atlantic seaboard. It is apparent from the facts at hand that this entire list of commodities, particularly those embraced within schedule B, should be scrutinized with care, and that all articles upon which the rates that can be secured from the eastern defined territories to the Pacific coast are not unreasonably low should be eliminated from schedule B and conform hereafter to the fourth section. All articles which do not originate on or near the Atlantic seaboard and upon which rates have not been particularly affected by water competition should also be eliminated from schedule B. All of the products of the soil, as well as canned goods from California, Washington, and Oregon, move to eastern territory via all-rail routes on rates that accord with the fourth section. The products of the soil of the central and eastern states, grain, vegetables, seeds, roots and fruits, and canned goods, should also be transported to markets on the Pacific coast under rates that are in accord with the fourth section.

As heretofore stated, there are now in the transcontinental tariffs a considerable number of items on which the rates from groups A to F, inclusive, to Pacific coast ports and intermediate points are in accord with the long-and-short-haul rule. These items we have referred to as schedule A items. The following items, shown in the tariff of R. H. Countiss, agent, I. C. C. No. 1019, cover articles that either do not originate in large volume on the Atlantic seaboard, or if so, the rates on such articles do not appear to have been materially affected by water competition and these rates should be realigned to conform for the future to the long-and-short-haul rule.

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Item No.	Carload minimum.	Rate to coast.	Rate applies from eastern defined territories west of the points named below.	Commodity.
300	26,000	\$1.00	Chicago.....	Acetone.
320	24,000	1.50	All ¹	Feed and ensilage cutters.
354-B	60,000	.50	Chicago.....	Barytes.
364-A	10,000	2.80	All ¹	Bicycles.
372	24,000	1.50	.....do. ¹	Blower drills, forges.
398-A	36,000	1.00	Chicago.....	Boxes or crates.
400-B	30,000	1.50	All ¹	Brass, bronze, or copper goods.
420-B	40,000	1.10	.....do. ¹	Canned goods.
422	24,000	1.50	.....do. ¹	Carbon, black.
426-A	24,000	2.20	.....do. ¹	Cards, sample.
434	40,000	2.50	.....do. ¹	Cash registers.
440	40,000	.60	Chicago.....	Cement.
456-A	50,000	.80	All east of Chicago.....	Buckwheat and buckwheat flour.
466-A	60,000	.58	Chicago.....	Wheat.
467-A		.67	Chicago.....	Cheese.
472-A	40,000	2.00	All east of Chicago.....	Oilskin clothing.
502	24,000	1.60	All ¹	Deplatory.
520	40,000	.85	Chicago.....	Dry goods.
552	24,000	1.50	All ¹	Electrical goods.
564	30,000	1.60	.....do. ¹	Do.
572-A	30,000	1.50	.....do. ¹	Do.
576	16,000	2.00	.....do. ¹	Do.
578	30,000	1.50	.....do. ¹	Feathers and feather pillows.
588	12,000	2.95	.....do. ¹	Files or boxes, letter.
592	16,000	2.00	.....do. ¹	Food, poultry, or stock.
596-B	40,000	.60	Chicago.....	Ice-cream freezers.
604	24,000	1.50	All ¹	Fruits, dried or evaporated.
606	30,000	1.50	.....do. ¹	Furnaces or fines.
620	24,000	1.50	.....do. ¹	Brass bedsteads.
626	30,000	1.50	.....do. ¹	Iron theater chairs.
642	24,000	1.70	.....do. ¹	Glass, plate, etc.
660	30,000	1.50	.....do. ¹	Glue.
702	30,000	.85	.....do. ¹	Glycerine in tank cars.
706-B	Rule 11.	.75	.....do. ¹	Gocarts, sulkeys, etc.
708	20,000	1.75	.....do. ¹	Gocarts, baby carriages, etc.
710	12,000	2.20	.....do. ¹	Harness and horse collars.
754	20,000	2.25	.....do. ¹	Hoops, wooden.
763-A	30,000	.85	Chicago.....	Safes, vaultfronts, and facings.
818	30,000	1.75	All ¹	Stable fittings.
828	30,000	1.50	.....do. ¹	Tanks, etc.
836	24,000	1.50	.....do. ¹	Vault boxes.
838	30,000	1.85	.....do. ¹	Vault and prison work.
840	30,000	1.75	.....do. ¹	Lime phosphate.
858	40,000	1.10	.....do. ¹	Liquors, viz, champagne.
864	30,000	1.50	.....do. ¹	Grape juice.
866-A	30,000	1.10	.....do. ¹	Liquors, n. o. .
868-A	30,000	1.25	.....do. ¹	Lumber, n. o. s.
874	40,000	.70	.....do. ¹	Lumber, ash, basswood.
875-B	60,000	.65	Chicago.....	Creamery and cheese factory machinery.
878	30,000	1.60	All ¹	Engines, internal combustion.
880	30,000	1.40	.....do. ¹	Lawn mowers, power.
882	30,000	1.50	.....do. ¹	Machinery and machines.
884	30,000	1.50	.....do. ¹	Saw, etc.
886	30,000	1.50	.....do. ¹	Malted milk.
902	40,000	1.25	.....do. ¹	Marble, granite, etc.
906	36,000	1.00	.....do. ¹	Meters and regulators.
910	24,000	1.60	.....do. ¹	Mills, back, bone, etc.
914	30,000	1.60	.....do. ¹	Mining and dump cars.
916	30,000	1.40	.....do. ¹	Musical instruments.
926	12,000	2.00	.....do. ¹	Nuts, edible, except peanuts.
940	30,000	1.50	.....do. ¹	Oil, cresote, in tank cars.
942-A	Rule 11.	.75	.....do. ¹	Oil-well outfits.
952	30,000	1.50	.....do. ¹	Books, periodicals, etc.
976	30,000	1.40	.....do. ¹	Boxes, paper or fiber board.
980	24,000	1.65	.....do. ¹	Pine tar, in tank cars.
984	Rule 11.	.60	Chicago.....	Pitch and tar.
996	60,000	.55	.....do. ¹	Photographic dry plates.
1006	30,000	2.00	All ¹	Cement and concrete bathtubs.
1008	40,000	1.30	.....do. ¹	Iron or steel bathtubs.
1012-A	30,000	1.60	.....do. ¹	Iron or steel fountains.
1016	40,000	1.25	.....do. ¹	Iron or steel sinks.
1018	40,000	1.25	.....do. ¹	Laundry tubs, ranges, etc.
1020	40,000	1.25	.....do. ¹	Pulp wood.
1024	36,000	.75	.....do. ¹	Pumps, etc.
1038	30,000	1.35	.....do. ¹	Pumps, spraying.
1044	24,000	1.50	.....do. ¹	Railway supplies.
1064	40,000	1.50	.....do. ¹	Resin.
1080	40,000	.55	Chicago.....	Rice.
1082	40,000	.60	.....do. ¹	
		.65	.....do. ¹	

¹ Eastern defined territories, group A to F, inclusive.

Item No.	Carload minimum.	Rate to coast.	Rate applies from eastern defined territories west of the points named below.	Commodity.
1084	40,000	\$0.85	All ¹	Rice flour.
1086	30,000	1.50	.....do.....	Road-making or road-grading implements.
1098	24,000	1.75	.....do. ¹	Rubber clothing.
1102-B	16,000	2.20	.....do.....	Rubber pneumatic tires.
1108	24,000	1.60	.....do.....	Sadfrons.
1114-A	60,000	.50	Chicago.....	Sand, etc.
1115	80,000	.40	.....do.....	Sand, silica.
1132	30,000	.85	All.....	Sheep dip.
1146-A	26,000	1.50	.....do.....	Soda fountain supplies.
1168	24,000	1.50	.....do.....	Cooking cabinets, fireless cookers.
1170	30,000	1.50	.....do.....	Furnaces.
1174	24,000	1.50	.....do.....	Gas grates.
1176	24,000	1.50	.....do.....	Ovens, bakers'.
1188	26,000	1.00	.....do.....	Sugar.
1191-A	60,000	1.00	.....do.....	Sulphur.
1198	Rule 11.	.80	.....do.....	Glucose and molasses in tank cars.
1204-A	24,000	1.75	.....do.....	Talking machines.
1208	40,000	1.25	.....do.....	Tallow.
1208	12,000	2.00	.....do.....	Tanks, oil.
1210	Rule 11.	1.15	.....do.....	Tanning extract in tank cars.
1217	40,000	1.25	.....do.....	Tes.
1226	30,000	2.25	.....do.....	Tin foil.
1228	30,000	2.00	.....do.....	Tobacco, cigarettes.
1244	40,000	1.25	.....do.....	Smoking, plug.
1254	30,000	1.40	.....do.....	Trucks, store.
1258	18,000	2.60	.....do.....	Trunks.
1258	40,000	.85	Chicago.....	Trunk slats.
1262	Rule 11.	1.25	All ¹	Turpentine, in tank cars.
1300-A	17,500	2.50	.....do.....	Motorcycles.
1310-A	36,000	1.75	.....do.....	Front axles.
1312	30,000	2.00	.....do.....	Wooden wheels.
1314	30,000	2.50	.....do.....	Wind shields, etc.
1324	30,000	1.50	.....do.....	Wire aluminum.
1340	32,000	1.50	.....do.....	Wool in grease.
1342	20,000	2.25	.....do.....	Wool scoured.
1352	40,000	1.25	.....do.....	Zinc plate, slab and sheet.
1366-D	60,000	.85	.....do.....	Canned goods.

¹ Eastern defined territories, groups A to F, inclusive.

The issues in this case and the evidence offered do not afford a foundation upon which we could properly make a finding as to the reasonableness of each of the rates which should be established on the items named above either to the coast or to the intermediate points. This must be done in the first instance by the carriers with due regard for all of the commercial, transportation, and competitive conditions affecting this traffic. In those instances in which the rates that can be secured to the coast points are of sufficient volume to admit of their grading to intermediate points the commodity rates to intermediate points should be graded or grouped in such manner as the varying conditions in the territory served appear to warrant. The commodities not named above upon which the rates to coast points are lower than to intermediate points constitute a very important list of articles upon which, under ordinary conditions, some fourth section relief should be granted. We think now that these rates to coast and interior should be realigned to conform with the long-and-short-haul rule. The realignment on these articles probably can not be maintained permanently. While there are many reasons to believe that ultimately some plan of grading the rates on these articles from eastern defined territories to the inter-

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mediate points should be effectuated, the issues in this case are not such as to permit us, if we desired to do so, to prescribe such a plan of grading. Furthermore, the time is not opportune. Nothing in this report must be construed as authorizing the carriers to increase any rates to intermediate points except points to which rates are now constructed by the addition of arbitraries or locals to the coast rates.

LESS-THAN-CARLOAD COMMODITY RATES WESTBOUND.

There are 117 items of less-than-carload commodity rates in the schedule B list upon which the rates vary from \$1.60 to \$5. There are 90 of these items to which rates apply varying from \$1.60 to \$2.50. Sixty of them take a rate of \$2 and 14 a rate of \$2.20. Fifty-four of these 74 items are articles which are classified as first class in western classification upon which the class rates to the Pacific coast are \$3 from the Missouri River and \$3.70 from New York. The commodity rate applied to the coast is from 54 to 73 per cent of the class rate on the same articles. Fourteen of the 74 items are classified as second class and the class rates to the coast are \$2.60 from the Missouri River and \$3.20 from New York. The commodity rates on these articles to the coast are, therefore, from 62½ to 84 per cent of the class rates.

There are 90 items in the schedule C list now moving on commodity rates of from \$1.50 to \$2. Two of these are classified as first class, 33 as second class, 29 as third class, and 26 as fourth class. The commodity rates are approximately 80 per cent of the class rates from the Missouri River to the Pacific coast. There are 19 second-class items in this schedule C taking a rate of \$1.75 to the Pacific coast. Where a rate can be secured which is higher than \$2.50 it would appear unlikely that such rates have been affected in any material degree by water competition and such articles should move either on class rates or on rates which accord with the long-and-short-haul rule. It is our opinion that relief should not be afforded on any article taking a commodity rate higher than \$2.50 even under normal conditions or such conditions as existed during the year following the opening of the Panama Canal.

We are of the opinion that the rates upon the other less-than-carload items in these lists are unreasonably low and have been depressed by reason of water competition. The rates on these articles should for the present be realigned to accord with the long-and-short-haul rule. If the carriers desire to continue commodity rates on these articles to the Pacific coast which are less than the class rates applicable thereto, the rates to intermediate points on the same articles should be constructed in such manner that they bear to the class rates to the intermediate points the same proportion as the

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readjusted commodity rates to the Pacific coast bear to the class rates to the coast. That is to say, if the commodity rate on any article from the Missouri River to the Pacific coast is readjusted and made, for example, 80 per cent of the class rate from the Missouri River to the Pacific coast, commodity rates should also be established from the Missouri River to intermediate points which are approximately 80 per cent of the class rates on the same articles from the Missouri River to these points

EASTBOUND COMMODITY RATES.

By Fourth Section Applications 9813, 10110, 10126, 10155, 10186, and 10189 the Southern Pacific Company-Atlantic Steamship lines and the Atchison, Topeka & Santa Fe Railway Company in connection with the Mallory Steamship Company, sought and obtained authority from the Commission to reduce the rates on barley, beans, canned goods, asphaltum, wine, and dried fruits from California ports, via rail-and-water lines through Galveston, Tex., to Atlantic seaboard ports, while maintaining higher rates from, to, and between intermediate points. These applications were made early in the year 1915, when the boat lines operating via the Panama Canal were actively engaged in building up business via their routes and were in fact transporting a very large percentage of the tonnage of these commodities at rates from 10 to 40 cents lower than the rates which the rail-and-water lines then sought to establish. The order issued in *Reopening Fourth Section Applications, supra*, rescinded, effective September 1, 1916, the fourth section orders issued responsive to the fourth section applications above named. As before stated, the schedules filed with the Commission effective September 1, naming increased rates on these commodities, were suspended until December 30, 1916, and subsequently canceled. The schedules which became effective March 1, 1917, had the effect of increasing the rates on these commodities by 10 cents per 100 pounds. Although it is clearly apparent that there is no necessity on account of existing competition by water for the maintenance of lower rates from the ports on these commodities than the rates from and to intermediate points, the carriers seek authority to continue these rates that they may be prepared for the water competition when it returns. Dealers in these commodities, both on the Pacific coast and in the eastern territory, support the application of the carriers. There was very little offered in evidence by carriers or interveners respecting the level of rates which might reasonably be applied on these commodities. Some testimony was offered by certain interveners as to the rate applied on dried fruit in bags, as compared to the rate applied on
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the same commodity in boxes, tending to show that the transportation conditions did not justify a difference of 20 cents in the two rates. As to this matter we express no opinion. Testimony was offered on behalf of certain wine shippers in California, urging that the shippers of wine in barrels were at a disadvantage as compared with the shippers of wine in tank cars. In *Lachman & Co. v. S. P. Co.*, 42 I. C. C., 440, we found that the existing relation in these rates did not result in unlawful discrimination against the shippers of wine in barrels. We can see now no justification for the continued maintenance of lower rates on any of these commodities from the Pacific ports to the Atlantic seaboard than are applied from, to, or between intermediate points. As heretofore stated, it is fundamental that if relief from the fourth section is to be granted as to any traffic there must exist at the competitive point an actual necessity for the maintenance of the lower rate at that point. This necessity should be so controlling as to prevent the carrier from securing the traffic at higher rates. This necessity as to this traffic in California products does not now exist, and the maintenance of lower rates from the coast points than from intermediate points under existing circumstances is clearly unwarranted.

We have considered carefully all of the facts urged by the carriers in support of their applications for authority to continue lower rates to the coast than to intermediate points, the statements made by representatives of shippers and receivers of freight, at the coast cities in the eastern shipping territory, and in the intermountain section. We have stated that the rates, both eastbound and westbound, should be revised at this time in such manner as to bring them into accord with the long-and-short-haul rule. When the water competition will return in force and in controlling amount between the two coasts is uncertain. We are of opinion that the carload rates on all of the commodities in schedules B and C shown in the present transcontinental tariffs, with the exception of those we have above enumerated by item number and caption, have been affected by water competition to such extent as to justify some fourth section relief under normal conditions. We are of opinion that the less-than-carload commodity rates which are less than \$2.50 per 100 pounds have been brought about as the effect of water competition and that some fourth section relief is justified on these commodities under normal conditions. When the water competition again becomes sufficiently controlling in the judgment of the carriers to necessitate the reduction of the rates to the coast cities to a lower level than can reasonably be applied at intermediate points, the carriers may bring the matter to our attention for such relief as the circumstances may justify. Competent

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proof must be submitted in connection with such applications of a fairly regular water service between the two coasts; the adaptability of the traffic to water competition; principal points of origin of the traffic; range of rates afforded by the water lines; principal points of consumption; and the ports upon the two seaboard at which the water carriers receive and deliver freight.

We are not unmindful of the claims of the carriers concerning the disadvantage under which they labor in being unable to reduce their rates promptly when necessitated by the competition of the water carriers. One of the primary purposes of the act to regulate commerce was to preserve competition between carriers. Competition involves a striving between or among two or more persons or organizations for the same object. There can exist no even-handed striving between two persons when one is bound and the other is free, and the maximum of real and effective competition can not exist between these boat lines and rail lines when one side is free promptly to make any rate it desires, while the other is so restricted by statutory requirement as to be unable to take the necessary steps for the prompt protection of its business. We are, however, also mindful that one of the primary purposes of building the Panama Canal was to assist in the development and maintenance of an active, efficient, and profitable water service between the two coasts. It is not our purpose to put upon these carriers any undue hardship in their attempt to meet such competition as the future holds for them. Such fourth section applications as they may find it necessary to make with reference to this traffic will be disposed of with such celerity as the circumstances may permit. Neither is it our purpose to permit the maintenance of rates to or from Pacific coast points at a level that will render this service unattractive to the boat lines.

An order will be entered denying the authority sought by these applications to continue lower rates on commodities to more distant than to intermediate points, and rescinding all previous orders entered in regard thereto.

The complaint in No. 9278 apparently will be satisfied by the decision above announced.

The evidence in No. 9258 is not sufficient to enable us to prescribe the relation between the rates from Kansas City and points farther east to intermountain points, and the case will be dismissed.

We append two maps showing the boundaries of the transcontinental groups A to F, inclusive, in one case on traffic destined to California terminals, and in the other case on traffic destined to north coast terminals.

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HARLAN, *Commissioner*, dissenting:

That the intermountain territory in the past has labored under unnecessary rate disadvantages sufficiently appears from the Commission's reports in various proceedings in which those rates were under consideration; and in so far as the findings of the majority in this proceeding require the correction of any unlawful inequalities against that territory in the present rate adjustments of the defendant carriers, I fully concur. The Pacific coast cities are entitled to such advantages as properly flow from the competition of carriers both by rail and by water for their traffic; but the all-water route through the Panama Canal must not be used by the carriers or accepted by the Commission as a basis for giving to those ports all-rail rates that are lower than the influences of the water routes require and which therefore would be unduly prejudicial of the intermountain territory. The rate relationship of the two territories ought to rest only on such influences as are substantial and controlling; and at any cost in time and labor the Commission should see that the intermountain territory has a rate structure and a rate relationship that are reasonable and fair in the light of all the conditions surrounding the transportation of traffic to and from that section of the country.

In the carefully prepared report of the majority an effort has been made to clear the schedules before us of any remaining maladjustments by ascertaining what commodities have not customarily moved to and from the Pacific coast by water and yet have been accorded for the all-rail service rates that are lower than the rates to the less distant intermountain markets. A no less careful examination has been made to ascertain what commodities there are that may and do move by water between the Atlantic and Pacific coasts but have taken rates for the all-rail service across the continent that are lower than the influence of the water competition has justified. A number of rates of both kinds are referred to in the report, and I am in hearty accord with the finding that they are unduly prejudicial of the intermountain territory and must be promptly revised.

The feature of the majority report in which I am unable to acquiesce and which did not seem sound to me when first announced in *Reopening Fourth Section Applications*, 40 I. C. C., 35, is the ruling that as the water competition between the coasts "has suffered an interruption" growing out of the war, the rail carriers, until the pre-war conditions are restored, may not lawfully continue the so-called terminal rates at the Pacific coast ports. The majority, as will be noted, "do not consider the water competition between the two coasts as having been eliminated." Nevertheless, as vessels formerly in the coast to coast service and vessels of companies specially incorporated for that service have been drawn tempo-

rarily into the European service, the report, until their return, requires the abandonment, with all the commercial disturbances that may follow, of a relationship in the carriers' all-rail rates, as between the Pacific coast ports and the intermountain territory, that has been in effect to a greater or less extent for 30 or 40 years. Even so far back as the days of the clipper sailing vessels, the water route around the horn is shown by the record to have had a direct influence upon the rates of the all-rail lines to the Pacific coast. Later the ocean-and-rail route by way of the Tehauntepec Isthmus exerted an even more definite influence on the all-rail rates from coast to coast. The ocean-and-rail routes through the Gulf ports have also had some effect in fixing the level of the all-rail rates across the continent. Finally, the Panama Canal was constructed at great public cost and largely for the purpose of tying the two coasts together by an all-water route that will endure, supposedly at least, for all time to come; and the new merchant marine now under construction gives us assurance that this great national all-water highway must necessarily be a permanently vital factor in the coast to coast commerce.

In the development of transportation nothing has yet appeared to suggest that commerce will ever move by land so cheaply as by the natural water routes. So far, therefore, as may now be anticipated the all-water route through the canal must control and for the generations to come be the basis, in a large degree, of the trade and commercial relations between the intermountain cities and the competing communities that are favored by being ports on the Pacific ocean. And unless the economic advantage of being terminals for an all-water route from coast to coast be taken away from the Pacific coast cities by some upheaval of nature or by legislation, they apparently will have in the future what they always have had in the past, namely, lower all-rail rates, on commerce that can and does move freely by water, than the less distant intermountain cities in the nature of things may expect to have. In all countries important cities are to be found, the prosperity and commanding position of which grow largely out of the fact that they are on the water and therefore have the benefit of that cheaper mode of transporting their commerce; and in many reported cases we have said that such communities may not lawfully be deprived of the benefits of their location on navigable waters by compelling the rail carriers that serve them to maintain rate adjustments that ignore that natural advantage.

Although it "has suffered an interruption," the majority report reassuringly predicts that "this service" through the canal "will be reestablished" in time. It points out also that "the canal and the oceans are still available for commerce" at this time. Nevertheless,

so far as its present influence on the coast to coast commerce is concerned, the majority look upon the Panama Canal as a negligible quantity. To this view of the present relation of that great national enterprise to the commerce of the country I am unable to give my assent. Case after case may be cited from the reported decisions of the Commission where actual water competition had altogether ceased and the continuance of such rate relationships was nevertheless sanctioned and approved because of the potential competition growing out of the availability of an open water route. This principle is here set aside, as I read the majority report, with the result that the established trade and commercial relationships of the coast cities, in the commodities and merchandise affected by the rate readjustments required under the report, may be torn up by the roots. I do not find any provision in the act to regulate commerce as amended that either requires or justifies any such consequences. While that act embodies some rigorous and inflexible principles the strict enforcement of which is vitally necessary in the common interest, it is nevertheless remedial in its general nature and in many particulars vests in the Commission a liberal discretion, in the exercise of which a practical rather than a technical view should be taken, especially of such questions as are here under consideration.

Values change with the point of view. If the important thing to these two competing territories is a fluctuating system of rates that will respond to abnormal and temporary changes of conditions, then the majority report is not without force in the disposition it makes of the questions presented by the record. But in that event it does not go far enough. If the canal is blocked for a few weeks by a slide—and as I understand the record, the reopening of this case was primarily based upon such an incident—the all-rail rates to the Pacific coast should at once, yet only for the period of such temporary interruption, be put on the normal all-rail basis and be freed from the depressing influences of water competition; and this also should be the result if a shipment is offered to the rail lines on Monday and it is found that no vessel sails until Saturday. On the other hand, if enduring and fundamental conditions ought to control, and if stability in rates and in the conditions under which the trade and commercial relations of these two territories must be conducted from day to day through the years to come is more conducive to their real welfare and to their sound future development, as I take to be the case, then the conclusions of the majority, in my judgment, are without justification.

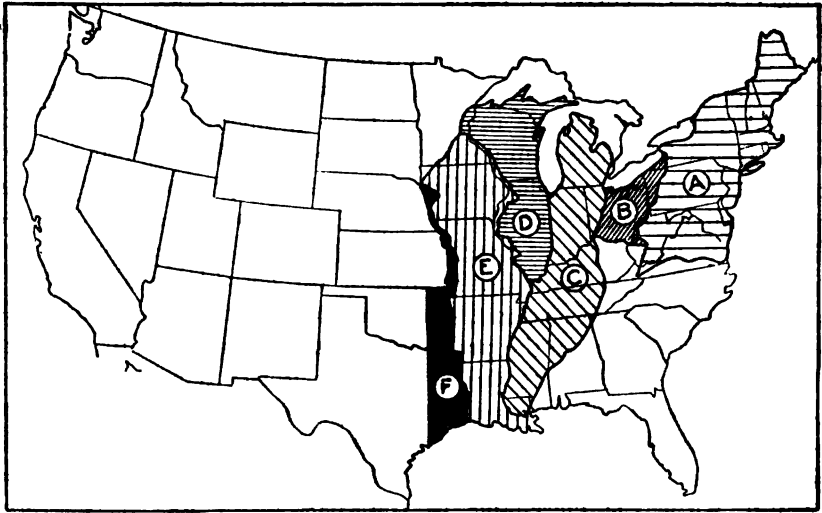
The readjustment now required by the majority is to continue, as their report indicates, only during the remainder of the war and until commerce again moves through the canal. If the resumption of the

water traffic may reasonably be anticipated in the near future, the disruption, coming nearly three years after the war commenced, of the present relations between the Pacific coast and the intermountain territory would seem to be highly unnecessary and undesirable. But even if the war conditions should continue and the resumption of commerce through the canal should not take place for two or three years longer, that would be but a moment of time compared with the period during which the present rate relationship has existed, and compared with the indefinite future during which, so far as we may now see, that general relationship must continue, because of the fixed and lasting character of the controlling natural conditions that we have been considering. The temporary interruption of the present relationship either for a few months or for several years, if the war conditions continue so long, can contribute nothing of substantial or continuing value to the prosperity of the intermountain territory. Its only effect will be to put the two territories temporarily out of line with what must necessarily be the course of their future relationship. During the period of the interruption the merchants of the intermountain cities may have a larger business than they otherwise would, while the merchants of the coast cities may have to pay materially higher rates on their traffic. The business of the intermountain jobbers will be speeded up while the business of the coast jobbers will be slowed down. These advantages, however, will be but temporary; they will not be constructively helpful to the intermountain territory or be of real aid in its future upbuilding; and in the meanwhile the merchants of both the competing territories will be left in perturbation and doubt respecting the contracts and commercial engagements that they may safely make while the purely provisional rate adjustment required under the majority report is in effect.

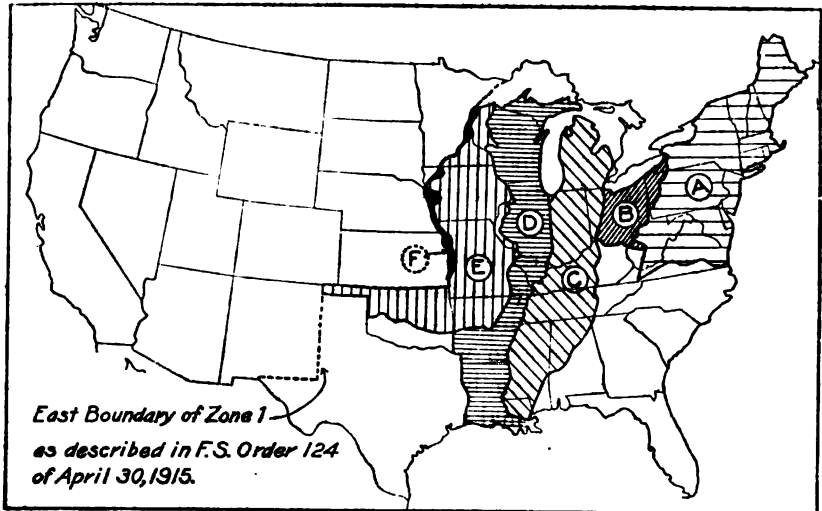
In my judgment rates and trade relations, based on conditions so permanent and enduring as the coast to coast water route through the Panama Canal, ought to be stable and secure against needless fluctuations, and I see no warrant either in the law or upon the record for now throwing both into sudden and violent confusion because of purely abnormal and temporary conditions.

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APPENDIX.



Eastern defined territories A to F on traffic to California terminals.



Eastern defined territories A to F on traffic to north coast terminals.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent.

[Rates in cents per 100 pounds, except as noted.]

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Acetone.....	300.....	36,000				100	100	
Agricultural implements:								
Reapers.....	304.....	24,000	125	125	125	125	125	
Hay presses.....	306.....	24,000	125	125	125	125	125	
Hay forks and carriers, etc.	308-A.....	24,000	125	125	125	125	125	
Land rollers, etc.....	310.....	24,000	125	125	125	125	125	
Plows, harrows, etc.....	312.....	24,000	125	125	125	125	125	
Seed drills, etc.....	314.....	24,000	125	125	125	125	125	
Stump pullers.....	316.....	24,000	125	125	125	125	125	
Feed and ensilage cutters, etc.	320.....	24,000	150	150	150	150	150	
Hand implements.....	326.....	24,000	135	135	135	135	135	
Parts for agricultural implements.	328.....	40,000	100		100	100	100	
Aluminum and aluminum articles.	330.....	20,000	165	165	165	165	165	
Ammonia, anhydrous.....	332.....	30,000	100	100	100	100	100	
Ammunition and gun implements.	336.....	40,000	100	100	100	100	100	
Argols.....	340.....	40,000	100	100	100	100	100	
Arsenate of lead.....	342.....	40,000	85	85	85	85	85	
Asbestos.....	344.....	24,000	100	100	100	100	100	
Bags, cotton.....	350.....	30,000	125	125	125	125	125	
Baking powders.....	352.....	36,000	100	100	100	100	100	
Barytes, limestone and whitening.	354-B.....	60,000			62½	50	50	
Beans, lentils, and peas.....	356.....	40,000	85	85	85	85	85	
Beehives.....	358.....	36,000	100	100	100	100	100	
Beverages and tonics.....	362-B.....	30,000	100	100	100	100	100	
Benzol, naphtha, etc.....	366.....	40,000	90	90	90	90	90	
Bicycles.....	364-A.....	10,000	250	250	250	250	250	
Billiard tables.....	368.....	24,000	145	145	145	145	145	
Blackboards.....	370.....	30,000	125	125	125	125	125	
Blowers, drills, and forges.....	372.....	24,000	150	150	150	150	150	
Boards, straw or chip.....	380.....	40,000	100	100	100	100	100	
Bottle, can or fruit jar caps.....	386-A.....	30,000	125	125	125	125	125	
Bottles, etc.....	388.....	30,000	85	85	85	85	85	
Do.....	390.....	30,000	75	75	75	75	75	
Do.....	392-C.....	30,000	125	125	125	125	125	
Bowling alley material.....	396.....	30,000	130	130	130	130	130	
Boxes or crates.....	398-A.....	24,000	150	150	150	150	150	
Brass, bronze, or copper goods.....	400-B.....	20,000	150	150	150	150	150	
Do.....	402.....	16,000	165	165	165	165	165	
Brass tubes.....	404.....	40,000	115	115	115	115	115	
Tubing, iron, brass covered.....	406.....	40,000	100	100	100	100	100	
Brick, earth and cement.....	407.....	40,000	100	100	100	100	100	
Butchers' blocks.....	414.....	20,000	85	85	85	85	85	
Candles.....	418.....	40,000	100	100	100	100	100	
Canned goods.....	420-B.....	40,000	110	110	110	110	110	
Carbon black.....	422.....	24,000	150	150	150	150	150	
Cards, sample.....	426-A.....	24,000	220	220	220	220	220	
Carpeting, rugs, and mats.....	428-A.....	30,000	125	125	125	125	125	
Cash registers.....	434.....	30,000	250	250	250	250	250	
Cement, liquid.....	436.....	40,000	100	100	100	100	100	
Cement, building or paving.....	440.....	40,000				60	60	
Buckwheat and buckwheat flour.....	456-A.....	50,000	80	80	80			
Wheat (except buckwheat).....	466-B.....	60,000				67	62½	58
Breakfast foods, etc.....	468.....	24,000	90	90	90	90	90	
Cheese.....	472-A.....	40,000	200	200	200			
Cider and vinegar.....	474.....	40,000	90	90	90	90	90	
Chains, automobile tire.....	480.....	40,000	100	100	100	100	100	
Terra cotta.....	486.....	40,000	75	75	75	75	75	
Clothes wringers, etc.....	492.....	36,000	100	100	100	100	100	
Clothespins.....	494.....	30,000	100	100	100	100	100	
Clothing.....	496-C.....	20,000	150	150	150	150	150	
Oilskin clothing.....	502.....	24,000	160	160	160	160	160	
Clothing, underwear, etc.....	504.....	20,000	150	150	150	150	150	
Cocoa, chocolate, etc.....	510.....	30,000	125	125	125	125	125	
Coffee.....	512.....	30,000	110	110	110	110	110	
Cooking room material.....	516.....	24,000	135	135	135	135	135	
Cotton or cotton linters.....	522-F.....	20,000	95	95	95	95	95	
Do.....	524-A.....	20,000	85	85	85	85	85	

¹ Applies only from Nicholasville, Ky.

Statement showing commodity rates to points taking "terminal rates" named in I. O. C. No. 1019, of R. H. Counties, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Cream separators.....	528.	36,000	115	115	115	115	115	.....
Doors, rolling.....	530.	30,000	125	125	125	125	125	.....
Deplatory.....	529.	40,000	.....	.....	.....	86	86	.....
Dressing or blacking.....	534.	30,000	110	110	110	110	110	.....
Drugs, medicines, and chemicals.	536-A.	24,000	120	120	120	120	120	.....
Dry goods, batts, etc.	548.	30,000	110	110	110	110	110	.....
Dry goods, spool thread, etc.	552.	24,000	150	150	150	150	150	.....
Earthenware and stoneware.	558-A.	24,000	115	115	115	115	115	.....
Electrical goods.....	564.	30,000	160	160	160	160	160	.....
Do.....	566.	30,000	125	125	125	125	125	.....
Do.....	568.	30,000	125	125	125	125	125	.....
Do.....	572-A.	30,000	150	150	150	150	150	.....
Do.....	574.	36,000	125	125	125	125	125	.....
Do.....	576.	16,000	200	200	200	200	200	.....
Do.....	578.	30,000	150	150	150	150	150	.....
Feathers and feather pillows.	582.	12,000	265	265	265	265	265	.....
Files or boxes, letter, etc.	584.	16,000	300	300	300	300	300	.....
Fish, dried or smoked, etc.	584.	36,000	120	120	120	120	120	.....
Food, poultry or stock.	586-B.	40,000	.....	.....	160	60	60	.....
Foods (animal), dog biscuit, etc.	588.	30,000	110	110	110	110	110	.....
Foundry findings, etc.	600-A.	60,000	85	85	85	85	85	.....
Frozers, ice cream.	604.	24,000	150	150	150	150	150	.....
Fruits, dried or evaporated.	606.	30,000	150	150	150	150	150	.....
Furnaces or flues.	620.	24,000	150	150	150	150	150	.....
Bedsteads, brass.	626.	30,000	150	150	150	150	150	.....
Bedsteads, iron.	628.	30,000	110	110	110	110	110	.....
Bedsteads, iron, etc.	630.	30,000	125	125	125	125	125	.....
Camp furniture.	634.	30,000	110	110	110	110	110	.....
Wooden stock for furniture.	640.	30,000	100	100	100	100	100	.....
Iron theater chairs.	642.	24,000	170	170	170	170	170	.....
Church pews.	644.	20,000	170	170	170	170	170	.....
Mattresses, springs, etc.	658.	20,000	110	110	110	110	110	.....
Tables and stands.	668-A.	30,000	125	125	125	125	125	.....
Table slides.	670.	40,000	115	115	115	115	115	.....
Beverages.	684-A.	30,000	75	75	75	75	75	.....
Glass and glassware.	686.	16,000	150	150	150	150	150	.....
Glass deck plates, etc.	688.	40,000	110	110	110	110	110	.....
Glass, plate, etc.	690.	30,000	150	150	150	150	150	.....
Glass, rough rolled.	692.	36,000	125	125	125	125	125	.....
Glassware, n. o. s.	696.	30,000	110	110	110	110	110	.....
Glass, window, common.	698.	50,000	90	90	90	90	90	.....
Glue.	702.	30,000	85	85	85	85	85	.....
Glycerin, in packages.	704-C.	40,000	75	75	75	75	75	.....
Glycerin, in tank cars.	706-B.	Rule 11	75	75	75	75	75	.....
Gocarts, sulkies, etc.	708.	20,000	175	175	175	175	175	.....
Gocarts, baby buggies, etc.	710.	12,000	220	220	220	220	220	.....
Graphite articles.	712.	30,000	100	100	100	100	100	.....
Grease, axle.	714.	40,000	90	90	90	90	90	.....
Grindstones and frames.	716.	36,000	80	80	80	80	80	.....
Gums, copal, etc.	720.	30,000	100	100	100	100	100	.....
Hames, harness, wooden.	726.	30,000	100	100	100	100	100	.....
Handles, wooden.	730.	36,000	125	125	125	125	125	.....
Handles, broom and mop.	732.	40,000	85	85	85	85	85	.....
Hardware and tools, hangers, etc.	736.	36,000	110	110	110	110	110	.....
Fullers, hinges, etc.	738.	36,000	110	110	110	110	110	.....
Sandpapers, etc.	740-B.	36,000	110	110	110	110	110	.....
Hardware and tools, wheels, grinding, etc.	744.	36,000	110	110	110	110	110	.....
Peavies, cant hooks, etc.	748-A.	36,000	125	125	125	125	125	.....
Picks, axes, etc.	750.	36,000	125	125	125	125	125	.....
Anvils, vices, etc.	752.	40,000	100	100	100	100	100	.....
Harness and horse collars.	754.	20,000	225	225	225	225	225	.....
Hollow ware, cast iron, etc.	762.	30,000	120	120	120	120	120	.....
Hoops, wooden, coiled.	768-A.	30,000	.....	.....	90	85	85	.....
Hoes, etc.	766.	30,000	125	125	125	125	125	.....
Incubators and brooders, etc.	776.	24,000	135	135	135	135	135	.....
Ink, mucilage, etc.	778-A.	30,000	100	100	100	100	100	.....
Iron and steel, articles of:								
Architectural, etc.	782.	30,000	130	130	130	130	130	.....
Axes, etc., for vehicles.	784.	40,000	100	100	100	100	100	.....
Barrels, drums, and kegs.	786-A.	16,000	135	135	135	135	135	.....
Do.....	788-A.	22,000	120	120	120	120	120	.....

¹ Applies only from Bayou La Batre, Ala.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Counties, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Iron and steel, articles of—								
Continued.								
Barrels, steel, k. d.....	788.....	36,000	100	100	100	100	100	.....
Brick siding, etc.....	792.....	40,000	110	110	110	110	110	.....
Castings, etc.....	794.....	30,000	115	115	115	115	115	.....
Coils and headers.....	796.....	40,000	100	100	100	100	100	.....
Conductor pipe, etc.....	798-A.....	20,000	120	120	120	120	120	.....
Fence, k. d., etc.....	802.....	36,000	100	100	100	100	100	.....
Fire plugs, hydrants, etc.....	804.....	36,000	100	100	100	100	100	.....
Forms or molds.....	805-A.....	40,000	100	100	100	100	100	.....
Jackscraws, etc.....	806.....	40,000	100	100	100	100	100	.....
Pipe, etc.....	810-A.....	30,000	100	100	100	100	100	.....
Range boilers.....	812.....	30,000	125	125	125	125	125	.....
Rolls, saw and rolling mill.....	814.....	30,000	110	110	110	110	110	.....
Sales, vault fronts and facings.....	815.....	30,000	175	175	175	175	175	.....
Sheet iron, sheet steel, etc.....	820.....	36,000	100	100	100	100	100	.....
Sheet, flat, rolled or corruga- ted.....	822.....	40,000	100	100	100	100	100	.....
Shutters and doors, etc.....	824.....	36,000	100	100	100	100	100	.....
Siphons, for sewer or water main.....	826.....	30,000	100	100	100	100	100	.....
Stable fittings, etc.....	828.....	30,000	150	150	150	150	150	.....
Stands, for street lamps, etc.....	830.....	40,000	100	100	100	100	100	.....
Stove—pipe, iron, etc.....	832.....	40,000	100	100	100	100	100	.....
Street car fenders.....	834.....	30,000	100	100	100	100	100	.....
Tanks, etc.....	836.....	24,000	150	150	150	150	150	.....
Vault boxes, etc.....	838.....	30,000	185	185	185	185	185	.....
Vault and prism work.....	840.....	30,000	175	175	175	175	175	.....
Jelly preparations.....	842.....	30,000	125	125	125	125	125	.....
Kilns, lumber drying.....	846.....	30,000	100	110	110	110	110	.....
Lamps and fixtures.....	848.....	20,000	125	125	125	125	125	.....
Leather and leather articles.....	850.....	24,000	125	125	125	125	125	.....
Do.....	852.....	24,000	140	140	140	140	140	.....
Lime, phosphate of.....	858.....	40,000	110	110	110	110	110	.....
Liquors, viz:								
Champagne.....	864.....	30,000	150	150	150	150	150	.....
Grape juice.....	866-A.....	30,000	110	110	110	110	110	.....
Liquors, n. o. s.....	868-A.....	30,000	125	125	125	125	125	.....
Lubricating compounds.....	872.....	30,000	110	110	110	110	110	.....
Lumber.....	874-B.....	40,000	80	80	75	70	70	.....
Lumber, ash, basswood, etc.....	875-B.....	60,000	.....	.....	65	60	60	.....
Macaroni, etc.....	876.....	30,000	100	100	100	100	100	.....
Machinery and machines:								
Creamery and cheese fac- tory machinery.....	878.....	30,000	150	150	150	150	150	.....
Engines, internal com- bustion.....	880.....	30,000	140	140	140	140	140	.....
Lawn mowers, power.....	882.....	30,000	150	150	150	150	150	.....
Machinery and machines.....	884.....	30,000	150	150	150	150	150	.....
Washing machines, etc.....	886-A.....	20,000	150	150	150	150	150	.....
Rock and ore crushers, etc.....	888-A.....	40,000	110	110	110	110	110	.....
Saws, etc.....	894.....	30,000	150	150	150	150	150	.....
Malted milk.....	896.....	40,000	125	125	125	125	125	.....
Marble, granite, etc.....	902.....	36,000	100	100	100	100	100	.....
Matchboxes.....	904.....	24,000	110	110	110	110	110	.....
Matting, mats and rugs, pa- per, etc.....	906.....	30,000	115	115	115	115	115	.....
Meters, cast iron.....	908.....	40,000	100	100	100	100	100	.....
Meters and regulators.....	910.....	24,000	160	160	160	160	160	.....
Mills, bark, bone, etc.....	914.....	30,000	150	150	150	150	150	.....
Mining cars and dump cars.....	916.....	30,000	140	140	140	140	140	.....
Mining car wheels.....	918.....	40,000	100	100	100	100	100	.....
Molding, mirror or picture frame.....	920.....	30,000	100	100	100	100	100	.....
Moon.....	922.....	20,000	150	150	150	150	150	.....
Musical instruments.....	926.....	12,000	200	200	200	200	200	.....
Nurseries and florists' stock.....	938.....	20,000	125	125	125	125	125	.....
Nuts, edible, except peanuts, not shelled.....	940.....	30,000	150	150	150	150	150	.....
Peanuts.....	942.....	24,000	130	130	130	130	130	.....
Oars.....	944.....	30,000	120	120	120	120	120	.....
Oil, crocote, in tank cars.....	948-A.....	Rule 11.	75	75	75	75	75	.....
Oil, crocote, in packages.....	950-A.....	40,000	75	75	75	75	75	.....

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Oil well outfits and supplies..	952.....	30,000	150	150	150	150	150	.....
Lard and lard substitutes....	962.....	30,000	125	125	125	125	125	.....
Paper and articles of paper:								
Books, periodicals, etc.....	976.....	30,000	140	140	140	140	140	.....
Basins, cups, dishes, etc....	978-A.....	24,000	125	125	125	125	125	.....
Boxes, paper or fiber board.....	980.....	24,000	165	165	165	165	165	.....
Boxes, strawboard.....	982.....	24,000	135	135	135	135	135	.....
Toilet paper, etc.....	986-B.....	25,000	110	110	110	110	110	.....
Pickles, etc.....	992.....	40,000	100	100	100	100	100	.....
Pine tar, in tank cars.....	994.....	Rule 11.	.....	.....	.....	60	60	.....
Pitch and tar.....	996.....	30,000	.....	.....	.....	65	65	.....
Pipe casing, etc.....	998.....	30,000	100	100	100	100	100	.....
Plaster work, etc.....	1004.....	24,000	100	100	100	100	100	.....
Photographic dry plates, etc..	1006.....	30,000	200	200	200	200	200	.....
Plumbers' goods, viz:								
Cement, concrete bath-tubs, etc.	1008.....	40,000	130	130	130	130	130	.....
China or earthenware tubs, etc.	1010.....	34,000	125	125	125	125	125	.....
Iron or steel tubs.....	1012-A.....	30,000	160	160	160	160	160	.....
Do.....	1014-A.....	30,000	125	125	125	125	125	.....
Iron or steel fountains, etc.	1016.....	40,000	125	125	125	125	125	.....
Iron or steel sinks, etc.....	1018.....	40,000	125	125	125	125	125	.....
Laundry tubs, ranges, etc.	1020.....	40,000	125	125	125	125	125	.....
Cooks, service, etc.....	1024.....	34,000	100	100	100	100	100	.....
Wooden or fiber.....	1026.....	34,000	125	125	125	125	125	.....
Potash, chloride of.....	1028.....	34,000	100	100	100	100	100	.....
Potash, nitrate of.....	1029.....	30,000	75	75	75	75	75	.....
Powder keg material.....	1032.....	34,000	90	90	90	90	90	.....
Pulp wood.....	1034.....	34,000	75	75	75	75	75	.....
Pumps, etc.....	1038.....	30,000	135	135	135	135	135	.....
Do.....	1040.....	34,000	110	110	110	110	110	.....
Pumps, spraying, etc.....	1044.....	24,000	150	150	150	150	150	.....
Railway supplies.....	1064.....	40,000	150	150	150	150	150	.....
Railway supplies.....	1068-A.....	40,000	100	100	100	100	100	.....
Brake shoes.....	1070-A.....	50,000	70	70	70	70	70	.....
Car wheels, etc.....	1072-A.....	40,000	80	80	80	80	80	.....
Tie plugs, etc.....	1074.....	36,000	100	100	100	100	100	.....
Refrigerators.....	1076.....	18,000	135	135	135	135	135	.....
Refuse burner material.....	1078.....	40,000	95	95	95	95	95	.....
Resin.....	1080.....	40,000	.....	.....	60	55	55	.....
Rice, etc.....	1082.....	40,000	.....	.....	.....	65	60	.....
Rice flour, rice meal, etc.....	1084.....	40,000	85	85	85	85	85	.....
Road making and grading implements.	1086.....	30,000	150	150	150	150	150	.....
Roofing, metal.....	1090.....	30,000	100	100	100	100	100	.....
Root beer syrup.....	1092.....	40,000	85	85	85	85	85	.....
Rubber, crude, etc.....	1094.....	30,000	125	125	125	125	125	.....
Rubber boots and shoes.....	1096.....	30,000	125	125	125	125	125	.....
Rubber clothing.....	1098.....	24,000	175	175	175	175	175	.....
Rubber rings, fruit jar.....	1100.....	30,000	100	100	100	100	100	.....
Rubber pneumatic tires, etc..	1102-B.....	16,000	220	220	220	220	220	.....
Rubber tires not pneumatic, etc.	1104-A.....	30,000	125	125	125	125	125	.....
Sedrons.....	1108.....	24,000	160	160	160	160	160	.....
Sand, etc.....	1114-A.....	60,000	.....	.....	.....	50	50	.....
Sand, silica.....	1116.....	30,000	.....	.....	.....	40	40	.....
Scales and scale beams.....	1120.....	30,000	120	120	120	120	120	.....
Screens, door and window.....	1122-A.....	24,000	120	120	120	120	120	.....
Seed, best.....	1126.....	30,000	100	100	100	100	100	.....
Sewing machines and parts.....	1128.....	20,000	150	150	150	150	150	.....
Sheep dip.....	1132.....	20,000	85	85	85	85	85	.....
Shot, iron or steel.....	1140.....	40,000	100	100	100	100	100	.....
Signs, roofing.....	1141-B.....	22,000	120	120	120	120	120	.....
Soda fountain supplies.....	1144.....	40,000	80	80	80	80	80	.....
Springs, auto, carriage, etc.....	1146-A.....	35,000	150	150	150	150	150	.....
Spring, wire.....	1152.....	40,000	100	100	100	100	100	.....
Stacker ladders, etc.....	1154.....	24,000	110	110	110	110	110	.....
Stamped ware and tinware.....	1156.....	40,000	80	80	80	80	80	.....
Stearic acid, etc.....	1158-A.....	22,000	120	120	120	120	120	.....
	1164.....	40,000	100	100	100	100	100	.....

¹ Applies only from Mobile, Ala.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Commins, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Stoves:								
Cooking cabinets and fireless cookers.....	1168	24,000	150	150	150	150	150	.....
Furnaces, etc.....	1170	24,000	150	150	150	150	150	.....
Furnaces, cast iron, etc.....	1172-A	40,000	110	110	110	110	110	.....
Gas grates, etc.....	1174	24,000	150	150	150	150	150	.....
Ovens, bakers.....	1176	24,000	150	150	150	150	150	.....
Cooking or heating stoves, etc.....	1178	24,000	150	150	150	150	150	.....
Do.....	1180	20,000	150	150	150	150	150	.....
Gas, gasoline, or oil stoves, etc.....	1182	24,000	150	150	150	150	150	.....
Radiators and coils.....	1183	40,000	100	100	100	100	100	.....
Water heaters.....	1184	30,000	170	170	170	170	170	.....
Stove boards.....	1185-A	25,000	100	100	100	100	100	.....
Supper.....	1188	25,000	100	100	100	100	100	.....
Sulphur.....	1191-A	60,000	100	100	100	100	100	.....
Sweat and collar pads.....	1192	20,000	125	125	125	125	125	.....
Straps, molasses, etc.....	1194-B	25,000	75	75	75	75	75	.....
Glucose in barrels.....	1196	30,000	75	75	75	75	75	.....
Glucose and molasses in tank cars.....	1198	Rule 11	80	80	80	80	80	.....
Talc.....	1202	60,000	75	75	75	75	75	.....
Talking machines, etc.....	1204-A	24,000	175	175	175	175	175	.....
Tallow.....	1206	40,000	125	125	125	125	125	.....
Tanks, oil.....	1208	12,000	200	200	200	200	200	.....
Tanning extract in tank cars.....	1210	Rule 11	115	115	115	115	115	.....
Tanning materials.....	1212	40,000	110	110	110	110	110	.....
Taploos, etc.....	1215-A	40,000	100	100	100	100	100	.....
Targets, clay or pitch.....	1216	30,000	110	110	110	110	110	.....
Tee.....	1217	40,000	125	125	125	125	125	.....
Tent pins, wooden.....	1217	40,000	80	80	80	80	80	.....
Tin and articles of tin:								
Tin can stock.....	1220	40,000	85	85	85	85	85	.....
Tin ridge caps, etc.....	1222	30,000	110	110	190	110	110	.....
Tin strips.....	1224	30,000	75	75	75	75	75	.....
Tin, pig.....	1226	30,000	100	100	100	100	100	.....
Tin foil.....	1226	30,000	225	225	225	225	225	.....
Tobacco, viz:								
Cigarettes, etc.....	1228	30,000	200	200	200	200	200	.....
Domestic.....	1232	20,000	150	150	150	150	150	.....
Smoking, plug, etc.....	1244	40,000	125	125	125	125	125	.....
Tow.....	1248	24,000	110	110	110	110	110	.....
Toys.....	1250-C	20,000	180	180	180	180	180	.....
Tree nails.....	1251	40,000	100	100	100	100	100	.....
Trunks, store, etc.....	1254	30,000	140	140	140	140	140	.....
Trunks, etc.....	1255	12,000	260	260	260	260	260	.....
Trunk slats.....	1258	40,000	.....	.....	.....	85	85	.....
Turpentine, etc.....	1260-A	30,000	125	125	125	125	125	.....
Turpentine, etc., in tank cars.....	1262	Rule 11	125	125	125	125	125	.....
Vehicle material, viz:								
Club spokes.....	1273	25,000	95	95	95	95	95	.....
Hub blocks.....	1280	25,000	85	85	85	85	85	.....
Rims, bows, etc.....	1282	30,000	115	115	115	115	115	.....
Sawed fellos, etc.....	1284	25,000	90	90	90	90	90	.....
Rims, shafts, etc.....	1286	30,000	115	115	115	115	115	.....
Singletrees, etc.....	1288	30,000	115	115	115	115	115	.....
Spokes and hubs.....	1289	30,000	115	115	115	115	115	.....
Wheels, wooden.....	1292	24,000	125	125	125	125	125	.....
Wheels, farm, etc.....	1300	24,000	125	125	125	125	125	.....
Motorcycles, etc.....	1304-A	17,500	250	250	250	250	250	.....
Vehicle parts, self-propelling:								
Front axles, etc.....	1310-A	25,000	175	175	175	175	175	.....
Wheels, wooden.....	1312	30,000	200	200	200	200	200	.....
Wind shields and frames.....	1314	30,000	250	250	250	250	250	.....
Wheels, motor truck.....	1313-A	30,000	125	125	125	125	125	.....
Washboards.....	1316	24,000	100	100	100	100	100	.....
Water coolers, etc.....	1318	22,000	120	120	120	120	120	.....
Wheelbarrows, etc.....	1320	24,000	100	100	100	100	100	.....
Window shades, materials, etc.....	1322	30,000	110	110	110	110	110	.....
Wire and wire goods, viz:								
Wire aluminum, etc.....	1324	30,000	150	150	150	150	150	.....
Wire cloth and netting.....	1326	25,000	120	120	120	120	120	.....
Wire mattress, woven.....	1332	20,000	120	120	120	120	120	.....

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Woodenware or fiberware.....	1334-A.	16,000	150	150	150	150	150	.....
Wooden veneer dishes or plates.	1335-A.	24,000	125	125	125	125	125	.....
Bungs and plugs.....	1336.....	30,000	115	115	115	115	115	.....
Woodenware, woven.....	1338.....	16,000	165	165	165	165	165	.....
Woolin grease.....	1340.....	32,000	150	150	150	150	150	.....
Wool, scoured.....	1342.....	20,000	225	225	225	225	225	.....
Wool combings, etc.....	1344-A.	20,000	150	150	150	150	150	.....
Zinc, chloride of, etc.....	1346.....	35,000	100	100	100	100	100	.....
Zinc, plate, slab, and sheet.....	1352.....	40,000	125	125	125	125	125	.....
Anchor, iron, etc.....	1356-A.	40,000	90	90	90	90	90	.....
Bags and bagging.....	1360-A.	48,000	95	95	95	95	95	.....
Calcium, carbide of.....	1362-A.	60,000	95	95	95	95	95	.....
Calcium, chloride of, in drums.....	1364-A.	60,000	.....	.....	.....	65	65	65
Canned goods.....	1366-D.	60,000	85	85	85	85	85	.....
Cocoa beans.....	1372-A.	40,000	85	85	85	85	85	.....
Coffee, green.....	1374-A.	48,000	90	90	90	90	90	.....
Compound, boiler, etc.....	1376-B.	40,000	85	85	85	85	85	.....
Cotton factory sweepings, etc.....	1378-A.	36,000	105	105	105	105	105	.....
Dry goods.....	1382-A.	40,000	100	100	100	100	100	.....
Electrical goods.....	1400-A.	40,000	90	90	90	90	90	.....
Electric poleline material, etc.....	1402-A.	40,000	85	85	85	85	85	.....
Hardware and tools:								
Lawn mowers, etc.....	1410-A.	40,000	105	105	105	105	105	.....
Rail or track, door.....	1416-A.	40,000	95	95	95	95	95	.....
Screws, iron or steel.....	1424-A.	50,000	85	85	85	85	85	.....
Sledges, wedges, etc.....	1434-A.	50,000	95	95	95	95	95	.....
Hemp, sisal, etc.....	1442-A.	24,000	85	85	85	85	85	.....
Iron and steel, articles of.....	1450-E.	40,000	90	90	90	90	90	.....
		50,000	85	85	85	75	75	.....
		60,000	75	75	75	65	65	65
Balls, rough forged.....	1456-A.	50,000	90	90	90	90	90	.....
Bar, etc.....	1458-C.	80,000	75	75	75	65	65	65
Billets, blooms, etc.....	1460-A.	80,000	75	75	75	65	65	65
Bolts, nuts, etc.....	1462-C.	80,000	75	75	75	65	65	65
Butts and hinges, etc.....	1464-A.	50,000	85	85	85	85	85	.....
Castings, etc.....	1472-A.	50,000	85	85	85	85	85	.....
Chain, etc.....	1480-A.	50,000	85	85	85	85	85	.....
Crowbars, etc.....	1486-A.	50,000	85	85	85	85	85	.....
Cylinders, etc.....	1488-A.	36,000	100	100	100	100	100	.....
Elevator guides, etc.....	1490-A.	50,000	85	85	85	85	85	.....
Lathing, etc.....	1492-A.	40,000	100	100	100	100	100	.....
Nails, spikes, etc.....	1496-C.	80,000	75	75	75	65	65	65
Nails, horseshoe.....	1498-A.	50,000	85	85	85	85	85	.....
Pipe fittings, etc.....	1500-B.	50,000	80	80	80	80	80	.....
Pipe, cast iron, etc.....	1502-A.	40,000	75	75	75	75	75	.....
Do.....	1504-A.	60,000	75	75	75	65	65	65
Conduits, iron.....	1506-A.	40,000	75	75	75	75	75	.....
Pipe, wrought iron or steel.....	1508-A.	40,000	75	75	75	75	75	.....
Do.....	1510-A.	80,000	75	75	75	65	65	65
Pipe bands or rods.....	1512-A.	50,000	85	85	85	85	85	.....
Plate and sheet, etc.....	1514-C.	80,000	75	75	75	65	65	65
Shafting.....	1516-A.	40,000	90	90	90	90	90	.....
Sheet, etc.....	1518-A.	50,000	85	85	85	75	75	.....
Shingle bands, etc.....	1522-C.	80,000	75	75	75	65	65	65
Shoes, horse, mule, and ox.....	1524-C.	80,000	75	75	75	65	65	65
Shoes, heads, rings, etc.....	1526-A.	50,000	85	85	85	85	85	.....
Sucker rods, etc.....	1530-A.	50,000	85	85	85	85	85	.....
Tubing.....	1532-A.	40,000	85	85	85	85	85	.....
Tubing, open seam.....	1540-A.	40,000	75	75	75	75	75	.....
Wine.....	1550-A.	40,000	100	100	100	100	100	.....
Lye.....	1552-A.	40,000	85	85	85	85	85	.....
Marine and oakum.....	1554-A.	36,000	100	100	100	100	100	.....
Oil, petroleum and products.....	1556-B.	(1)	90	90	90	90	90	.....
Oil, castor, coconut, etc.....	1558-B.	30,000	90	90	90	90	90	.....
Oil, in tank cars.....	do.	Rule 11	90	90	90	90	90	.....
Oil, linseed, in barrels or drums.....	1560-A.	45,000	85	85	85	85	85	.....
Oil, linseed, in tank cars.....	do.	Rule 11	85	85	85	85	85	.....
Oil, cottonseed.....	1562-A.	30,000	90	90	90	90	90	.....
Oil, cottonseed, in tank cars.....	do.	Rule 11	90	90	90	90	90	.....
Oilcloth, linoleum, etc.....	1564-A.	50,000	85	85	85	85	85	.....
Paint.....	1566-B.	40,000	85	85	85	85	85	.....

1 Western classification.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Paper and articles of paper:								
Adding machine, book, etc.	1580-B.	40,000	100	100	100	100	100	.....
Bag and barrel linings....	1594-B.	40,000	90	90	90	90	90	.....
Book, cover, etc.	1596-B.	40,000	90	90	90	90	90	.....
Book, news, poster, etc.	1598-B.	40,000	85	85	85	85	85	.....
Boxes, pulpboard, etc.	1600-B.	40,000	95	95	95	95	95	.....
Building, etc.	1602-C.	40,000	85	85	85	85	85	.....
Roofing felt.....	.....	36,000	85	85	85	85	85	.....
Paper, wall, etc.	1604-B.	40,000	100	100	100	100	100	.....
Strawboard.....	1606-A.	50,000	.....	.....	.....	65	65	65
Toilet paper and paper towels.	1608-B.	26,000	100	100	100	100	100	.....
Wrapping, not printed...	1610-B.	40,000	90	90	90	90	90	.....
Wrapping, bags, fruit, etc.	1612-B.	40,000	100	100	100	100	100	.....
Writing, etc.	1614-B.	40,000	100	100	100	100	100	.....
Potassium and sodium, cyanide of.	1616-A.	40,000	95	95	95	95	95	.....
Roofing, etc.	1618-B.	40,000	90	90	90	90	90	.....
Radiators.....	1620-A.	40,000	95	95	95	95	95	.....
Ship and boat spikes....	1622-C.	80,000	75	75	75	65	65	65
Soap, etc.	1630-C.	40,000	90	90	90	90	90	.....
Soda ash, etc.	1632-A.	40,000	.....	.....	.....	65	65	65
Soda, bicarbonate of, etc.	1640-A.	50,000	85	85	85	85	85	.....
Starch and dextrine.....	1648-A.	40,000	95	95	95	95	95	.....
Stoves, viz:								
Radiators and coils.....	1650-A.	50,000	85	85	85	85	85	.....
Sectional boilers, etc.	1652-A.	50,000	95	95	95	95	95	.....
Stovepipe iron.....	1654-A.	50,000	85	85	85	85	85	.....
Tacks, iron, etc.	1656-A.	50,000	85	85	85	85	85	.....
Tile.....	1662-A.	40,000	90	90	90	90	90	.....
Tin cans, pads, or boxes....	1664-B.	24,000	100	100	100	100	100	.....
Tin andterne plate.....	1666-E.	30,000	84	75	75	65	65	65
Twine and cordage.....	1668-A.	40,000	85	85	85	85	85	.....
Wire fencing, etc.	1672-A.	30,000	85	85	85	85	85	.....
Wire, insulated or covered....	1680-A.	50,000	85	85	85	85	85	.....
Wire rods.....	1682-C.	80,000	75	75	75	65	65	65
Wire rope, etc.	1684-B.	50,000	85	85	85	85	85	.....
Wire telephone or electric light cable.	1686-A.	50,000	85	85	85	85	85	.....
Zinc (spelter).....	1688-A.	40,000	85	85	85	75	75	.....
Rails (steel), etc.	1690-C.	80,000	¹ 1,600	¹ 1,550	¹ 1,300	¹ 1,300	¹ 1,300	¹ 1,300
Rail fastenings.....	1692-C.	60,000	¹ 1,570	¹ 1,510	¹ 1,300	65	65	65

¹ Rates in cents per ton of 2,240 pounds.

² Applies only from specific points named in item.

Rule 11.—Cars to be loaded to full gallonage capacity

46 I. C. C.

No. 8540.
CARLOWITZ & COMPANY
v.
CANADIAN PACIFIC RAILWAY COMPANY ET AL.

Submitted May 17, 1916. Decided July 10, 1917.

1. Upon complaint that the charges on powdered egg yolk and flaked egg albumen in carloads from Vancouver, Canada, to New York, N. Y., on traffic originating in China, were unreasonable and illegal; *Held*, That the jurisdiction of the Commission over through shipments from a foreign country to points in the United States extends only to that portion of the transportation within the confines of the United States.
2. Portion of charges received for the transportation within the United States not shown to have been unreasonable or otherwise in violation of the act. Complaint dismissed.

John W. Crandall, George C. Sprague, and Hunt, Hill & Betts for complainants.

G. F. Snyder for Canadian Pacific Railway Company.

John M. Sternhagen for New York Central Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainants are Martin March, Robert Lenzmann, Albert Schultz, Townsend Rushmore, Bertram Rosenbaum, Rudolph Laurenz, A. von Bohuscewicz, and C. Landgraf, copartners, engaged in a general export and import business under the firm name of Carlowitz & Company, at New York, N. Y. By complaint, filed November 29, 1915, as amended, they allege that the charges collected by defendants for the transportation from Vancouver, Canada, to New York, between April and July, 1914, inclusive, of five carloads of powdered egg yolk and flaked egg albumen which originated in China, were unreasonable and illegal. Reparation is asked. Rates are stated in amounts per 100 pounds.

Powdered or dried egg yolk and flaked or dried egg albumen are produced by separating an egg into its component parts and reducing each part to a dried form. Two of the shipments consisted entirely of dried egg yolk; the others, for the most part, of dried egg yolk, but with some dried egg albumen. The yolk and albumen were packed separately in hermetically sealed zinc containers inclosed in wooden boxes. The shipments originated at Hankow, China, and were for-

warded to New York on through bills of lading. They moved from Vancouver, through Canada, by way of the Canadian Pacific Railway in connection with an independent car ferry, to Ogdensburg, N. Y., and thence through the United States by way of the New York Central Railroad to destination. Each of the shipments weighed in excess of 40,000 pounds. No joint commodity rate was applicable from Vancouver to New York, and charges were collected at defendants' joint second-class import rate of \$3.20. Effective October 19, 1914, after the shipments moved, defendants established an import carload commodity rate of \$1.25, minimum 30,000 pounds, on dried egg yolk and dried egg albumen, in cases, from Vancouver to New York, and this rate is still in effect. Complainants do not assail the present rate, but merely seek reparation.

Defendants' tariff naming joint import class rates from Vancouver to New York, in effect when the shipments moved, was governed by the western classification, which prescribed any-quantity ratings of first class on desiccated eggs in barrels, or in metal cans in barrels or boxes, and second class on egg yolks in barrels or, under rule 8 of the effective classification, in boxes. A carload rating of third class, minimum 20,000 pounds, was also provided on eggs, n. o. i. b. n., in barrels or boxes, or in metal cans hermetically sealed and packed in barrels or boxes. Defendants contend that the articles shipped were desiccated eggs and that the first-class import rate of \$3.70 was therefore legally applicable. Complainants contend that the articles in question were not eggs, but if held to be eggs, that the third-class import rate of \$2.65, applicable on eggs, n. o. i. b. n., should have been assessed. We are of opinion that dried egg yolk and dried egg albumen are commodities separate and distinct from desiccated eggs, which consist of the dried whole egg. They were so recognized commercially when the shipments moved and different customs duties were prescribed on the individual articles. Under the provisions of the governing western classification the second-class any-quantity rating on egg yolks was legally applicable on dried egg yolk. There was no specific rating applicable on egg albumen in any form.

The Canadian Pacific Railway challenges our jurisdiction to pass upon the reasonableness of the through charges assailed. The act to regulate commerce specifically confers jurisdiction upon this Commission over traffic shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or in an adjacent foreign country. It does not, however, give to this Commission any extraterritorial authority, but merely defines the nature of the traffic to which our jurisdiction extends. Our jurisdiction is correctly stated in *International Paper Co. v. D. & H. Co.*, 33 I. C. C., 270, and *Carey Mfg.*

Co. v. G. T. W. Ry. Co., 36 I. C. C., 203. In the latter case we held that the extent of our jurisdiction in connection with the transportation to or from an adjacent foreign country is over that portion of the transportation within the confines of the United States. We can not prescribe joint through rates from points in an adjacent or non-adjacent foreign country to points in the United States, but we can control the charges for that portion of the service rendered by carriers in the United States.

Copies of waybills filed in the record indicate that the New York Central's division of the rate assailed was 36 cents for the haul, approximately 387 miles, from Ogdensburg to New York. No testimony was specifically directed to the reasonableness of the charge for this movement. The record does not disclose what division accrued to the New York Central under the subsequently established commodity rate of \$1.25. If, in the absence of a joint rate, the shipments had moved at a combination rate based on Ogdensburg, the movement from Ogdensburg to New York would have been governed by the official classification, which at that time prescribed any-quantity ratings of second class on egg yolks dried, in barrels or boxes, and also on albumen n. o. s., including dried egg albumen, in barrels or boxes. The second-class rate over the route of movement from Ogdensburg to New York was 38 cents. The current official classification specifically rates the articles in question second class, any quantity. In so far as the transportation of the shipments within the United States is concerned, there appears to be no good reason why dried egg albumen, which was not specifically rated in the western classification at the time of movement, should not have been rated second class.

We find that the charges received by the New York Central Railroad Company for that portion of the transportation of the respective shipments within the United States are not shown to have been unreasonable or otherwise in violation of the act.

An order dismissing the complaint will be entered.

DANIELS, *Commissioner*, concurs in the result.

46 I. C. C.

INVESTIGATION AND SUSPENSION DOCKET No. 967.
TOLEDO SWITCHING.

Submitted March 14, 1917. Decided July 9, 1917.

Proposed increased switching charge at Toledo, Ohio, between industries on respondent's rails and the transfer track of the Cincinnati, Hamilton & Dayton Railway, found not justified. Suspended schedules ordered canceled.

Ernest S. Ballard for respondent.

H. C. Wilson for protestant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By schedules, filed to take effect November 15, 1916, the New York Central Railroad Company proposed to increase from \$3 to \$5 per car its charge at Toledo, Ohio, for switching carloads of freight between industries on its rails and the transfer track of the Cincinnati, Hamilton & Dayton Railway. Upon protest filed by the Commercial Club of Toledo the schedules were suspended until September 15, 1917.

Respondent's present switching charge of \$3 per car applies between industries on its rails at Toledo and the transfer tracks of 13 of respondent's connections at that point, including the Cincinnati, Hamilton & Dayton. A charge of \$4 per car is made to and from the Detroit & Toledo Shore Line Railway. An increase is proposed only to and from the Cincinnati, Hamilton & Dayton. As a general rule, where the net revenue for the line haul is \$10 or more per car for a single-line haul and \$12 or more per car for a haul over two or more lines, respondent's present switching charge is absorbed by the Cincinnati, Hamilton & Dayton. Where the net-revenues are less than the amounts named the shipper is required to bear the entire switching charge.

Respondent admits that the reason for the proposed increased charge is that the Cincinnati, Hamilton & Dayton refuses to switch, at the present reciprocal switching charge of \$3 per car, shipments of crude oil in tank cars arriving at Toledo over respondent's line to the siding of a certain oil industry located on the tracks of the Cincinnati, Hamilton & Dayton, but demands a division of the joint rate on this traffic. This oil is piped from the cars into tanks lo-

cated alongside the industry's siding and thence to docks on the river front owned by the Cincinnati, Hamilton & Dayton. None of the lines which own docks at Toledo opens them to connections. The Cincinnati, Hamilton & Dayton contends that this oil traffic is dock traffic. Respondent insists that, by reason of the refusal of the Cincinnati, Hamilton & Dayton to include this traffic under the present reciprocal switching arrangement, it is justified in establishing a reasonable charge for switching from and to the Cincinnati, Hamilton & Dayton. Evidence was offered to show that the proposed charge is reasonable. Respondent does not contend that it costs more to switch from and to the Cincinnati, Hamilton & Dayton than from and to other lines at Toledo. Its witnesses admitted that to and from certain other lines at Toledo it costs as much as and in some cases more than from and to the Cincinnati, Hamilton & Dayton. The controversy between respondent and the Cincinnati, Hamilton & Dayton is not pertinent to this case, and, in the view we take, we need not consider the reasonableness of the proposed increased charge. It is obvious that the proposed schedules would result in undue prejudice to traffic received at Toledo by way of the Cincinnati, Hamilton & Dayton and delivered at industries on respondent's rails and to similar traffic in the opposite direction.

We find that respondent has not justified the proposed increased switching charge, and an order will be entered requiring the cancellation of the schedules under suspension.

46 I. C. C.

INVESTIGATION AND SUSPENSION DOCKET No. 970.
FLOUR STORAGE.

Submitted May 7, 1917. Decided July 10, 1917.

Proposed increased charges for storage of flour in the Baltimore & Ohio Railroad Company's warehouses at Baltimore, Md., found to have been justified, and orders of suspension vacated.

F. R. Cross and *C. R. Webber* for Baltimore & Ohio Railroad Company.

Herbert Sheridan for Baltimore Chamber of Commerce.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

By schedules, filed to take effect November 21, 1916, the Baltimore & Ohio Railroad Company proposed the following charges for storage of flour in its warehouses at Baltimore, Md.: In barrels, in bales of 98 pounds or over, or in sacks of 98 pounds, 4 cents per 200 pounds per month or fraction thereof; in sacks of less than 98 pounds and on potato flour in sacks of 220 pounds, 5 cents per 200 pounds and 220 pounds, respectively, per month or fraction thereof; an increase of 1 cent in each instance over the present charges, which have been in effect since January 2, 1905. Upon protest filed by the Baltimore Chamber of Commerce the schedules were suspended until September 21, 1917.

In justification of the proposed increased charges it is testified that in recent years the labor employed in the warehouses has decreased in efficiency and the cost thereof increased from 20 to 75 per cent; that taxes and expenses have advanced materially; that compliance with the local fire regulations has materially reduced the available storage space; that flour requires a special service and can be stored only in dry, cool places, where it is protected from contaminating odors; and that, as it has doubled in value within the past year or two, the liability for loss and damage has correspondingly increased. Within recent years some increases have been made in the storage charges at Baltimore on other commodities. Respondent's present charges on beans, bran, cereal products, dried fruits, meal, peas, salt, and starch are higher than those here proposed on flour, although in some instances on a diminished basis for storage after the first month. Also, at a number of eastern and middle west cities of importance the flour storage charges are shown to be gen-

erally as high as or higher than those under suspension, and, except at Philadelphia, Pa., are assessed for monthly periods, with additional charges for handling in several instances, whereas the charge in issue covers the cost incident to the unloading of the flour into the warehouses after the expiration of free time and the delivery thereof at the tailboard of drays when it is removed by the shipper. In addition to the labor so employed a clerical force is engaged in keeping complete records of the shipments so handled.

Protestant points out that the free time allowed at Baltimore has been reduced from 10 days to 2 days, and testifies that many inconveniences are experienced by shippers because the carriers do not move the shipments with any degree of regularity. They contend that the increased expenses have been met by an increase in the charges on other commodities, and urge that, if the proposed charges are allowed to become effective, the charges of other warehouses at Baltimore will be similarly increased. Delays are encountered and increased expense incurred by shippers at some of respondent's warehouses as a result of insufficient facilities for making prompt deliveries to the drays.

Protestant reiterates the objection made by it in *Baltimore Chamber of Commerce v. B. & O. R. R. Co.*, 38 I. C. C., 326, that flour storage charges at Philadelphia are applied for 10-day and 15-day periods for the first and subsequent months, respectively, and contends that in view of the competition between Philadelphia and Baltimore it is unreasonable to continue to maintain at Baltimore flour storage charges on a monthly basis. In that case we said:

The complainant lays some stress upon the fact that at Baltimore the failure to remove flour within the free time period entails the payment of 30 days' charges upon flour remaining in storage, while at Philadelphia the storage periods are of 10 days each, giving the consignee an opportunity to reduce the penalty. The record discloses no reason why such a difference in the length of the storage periods should exist, and the desire for uniformity, which has prompted the carriers to harmonize the free storage periods at the two points, suggests that they ought also to bring about a corresponding harmony in such charges and in the general warehouse regulations, so far as they are under the carriers' control.

The issue in that case was a reduction of the free time from four days to two days. We find in this case no basis for finding that Baltimore is unduly prejudiced by reason of the apparently exceptional storage periods at Philadelphia.

Upon all the facts of record we are of the opinion and find that the proposed increased charges have been justified, and an order will be entered vacating the orders of suspension.

No. 7915.
ARIZONA CORPORATION COMMISSION
v.
ATCHISON, TOPEKA & SANTA FE RAILWAY
COMPANY ET AL.

Submitted February 12, 1916. Decided July 9, 1917.

Present rates on ore and concentrates in carloads from certain points in New Mexico to Douglas, Ariz., established subsequent to the hearing are satisfactory to shipper on whose behalf the proceeding was instituted. Complaint dismissed.

L. C. Hardy, A. W. Cole, A. A. Betts, and W. N. Sangsten for complainant.

T. J. Norton, F. E. Andrews, and L. H. Chalmers for Atchison, Topeka & Santa Fe Railway Company.

Hawkins & Franklin for El Paso & Southwestern Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By complaint, filed April 13, 1915, as amended, the Arizona Corporation Commission alleges that the rates on ore and concentrates, in carloads, from Silver City, Fierro, Santa Rita, and Hurley, N. Mex., to Douglas, Ariz., are unreasonable and unduly prejudicial as compared with the rates from the same points to El Paso, Tex. The establishment of reasonable rates for the future is asked. Rates are stated in amounts per net ton.

The points of origin are local stations on the Atchison, Topeka & Santa Fe Railway, hereinafter called the Santa Fe. Douglas is a local station on the line of the El Paso & Southwestern Company. Shipments to Douglas move over the Santa Fe to Deming, N. Mex., an average distance of 47 miles, and the El Paso & Southwestern beyond, 156 miles.

Rates on ore and concentrates in this territory are generally based on value, the rates assailed, which are blanketed from the originating points, applying on ores of the following values:

Value not exceeding \$15.....	\$2.00
Value over \$15 but not exceeding \$25.....	2.50
Value over \$25 but not exceeding \$50.....	3.00
Value over \$50 but not exceeding \$100.....	4.00

Shipments from the points of origin to El Paso move locally over the Santa Fe, an average distance of 178 miles. A rate of \$1 applies from these points to El Paso on ores and concentrates regardless of value.

The Santa Fe states that the rate to El Paso was established to encourage the movement of low-grade ores from Hurley, and is in the nature of a proportional rate as that line gets additional revenue for hauling ore products from El Paso to the east. Defendants insist that the rates complained of should not be compared with the rate to El Paso for the reason that the latter rate is abnormally low and is for a one-line haul, while the rates to Douglas are for two-line hauls and involve switching at Deming.

On July 19, 1915, subsequent to the hearing, defendants established the following reduced rates on ore from these points of origin to Douglas:

Value not exceeding \$15.....	\$1. 75
Value over \$15 but not exceeding \$25.....	2. 25
Value over \$25 but not exceeding \$50.....	2. 75
Value over \$50 but not exceeding \$100.....	3. 75

These rates, which are still in effect, compare favorably with the rates on ore and concentrates generally applicable in this territory. The Copper Queen Consolidated Mining Company, at whose instance this complaint was filed, advises that the present rates are satisfactory and requests the dismissal of its complaint. This disposition of this case is without prejudice to any conclusion that may be reached as to publication of rates dependent upon value, in future consideration of the Cummins amendment.

An order will be entered accordingly.

46 I. C. C.

No. 8165.¹

SOUTHWESTERN MILLERS LEAGUE ET AL.

v.

**ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
ET AL.**

Submitted June 30, 1916. Decided July 10, 1917.

Reparation denied on shipments of flour in carloads which moved from points in Kansas to points in Arizona previous to adjustment of the rates following *Arizona Corporation Commission v. A. & N. M. Ry. Co.*, 29 I. C. C., 424.

A. E. Helm and C. V. Topping for complainants.

W. T. Hughes, F. H. Wood, Robert Dunlap, T. J. Norton, and F. E. Andrews for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

These complaints were filed July 16 and August 5, 1915, by the Southwestern Millers League, a voluntary association of millers at Wichita, Kans., on behalf of certain of its members engaged in milling grain at points in Kansas. The allegations are that the rates charged by defendants for the transportation of certain carloads of flour from points in Kansas to points in Arizona intermediate to the California terminals were unreasonable and unlawful, in violation of sections 1 and 15 of the act. Reparation is asked, and is the only object of the complaints.

Prior to October 1, 1914, the rates on flour, in carloads, from Kansas points to the California terminals were lower than the rates to intermediate Arizona points. In *Arizona Corporation Commission v. A. & N. M. Ry. Co.*, 29 I. C. C., 424, decided February 9, 1914, we found that the rates from Kansas and other states to Arizona points intermediate to the California terminals were unreasonable and unduly prejudicial to the extent that they exceeded the rates contemporaneously maintained to the California terminals, and gave the carriers until May 1, 1914, to revise their rates in substantial accordance with our findings, stating that if the revision was not made by that date, an order would be entered. The carriers failed to make the revision before the date named and on May 12,

¹ The report also embraces No. 8165 (Sub-No. 1), *Same v. Union Pacific Railroad Company et al.*, and No. 8165 (Sub-No. 2), *Same v. Chicago, Rock Island & Pacific Railway Company et al.*

1914, we entered an order which, as subsequently amended, required them to establish, on or before October 1, 1914, and thereafter to maintain and apply for a period of not less than two years, rates on flour to the intermediate Arizona points not in excess of the rates contemporaneously maintained to the California terminals.

The shipments moved between May 1 and October 1, 1914. Complainants urge that section 15 of the act was violated because the carriers did not revise the rates to Arizona points by May 1, 1914, in conformity with our finding in the case cited. But the order entered therein did not become effective until October 1, 1914.

Complainants further argue that reparation should be awarded because the rates assailed were found unreasonable in the case cited and because the defendants therein did not establish on or before May 1, 1914, in conformity with our finding the lower rates found reasonable. As stated, our order in that case did not become effective until October 1, 1914, after complainants' shipments moved. The compulsory reduction of rates does not necessarily entitle shippers under the preexisting rates to reparation. Reparation has been denied on shipments moving prior to the effective date of our orders reducing rates, where, as in the case cited, the rates reduced have long been in effect and when our orders requiring reductions involved readjustments of rates throughout an extensive territory. Furthermore, the only witness for the complainants herein had no first-hand knowledge of the facts concerning the shipments or the payment of freight charges. The evidence adduced in this respect is unsubstantial and insufficient.

Upon all the facts disclosed we find that reparation should be denied. An order will be entered dismissing the complaints.

46 I. C. C.

No. 8703.¹
ABEL & ROBERTS
v.
MISSOURI PACIFIC RAILWAY COMPANY ET AL.

Submitted October 6, 1916. Decided July 10, 1917.

Rates on chatts in carloads from Webb City, Mo., to Beatrice, Nebr., not shown to have been unreasonable. Complaint dismissed.

H. G. Denison and Carl E. Herring for complainants.

H. A. Scandrett, L. T. Wilcox, R. B. Scott, L. C. Mahoney, Thomas Bond, Henry G. Herbel, Fred G. Wright, and F. B. Clark for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainants are G. P. Abel and C. W. Roberts, formerly copartners engaged in the general contracting business under the name of Abel & Roberts, at Lincoln, Nebr., and the Ford Paving Company, a corporation, also engaged in the general contracting business, at Cedar Rapids, Iowa. By complaints, filed March 3, 1916, as amended, and April 7 and 10, 1916, they allege that the rates charged by defendants for the transportation of 60 carloads of chatts from Webb City, Mo., to Beatrice, Nebr., during August, September, October, and November, 1914, were unreasonable to the extent that they exceeded 8 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds unless otherwise specified.

Chatts, or zinc tailings, are mixed with cement and other materials in the construction of concrete paving and curbing, and these shipments were so used at Beatrice. Chatts, which move in coal cars, are worth about 15 cents per ton and are not susceptible of damage in transit.

The shipments, averaging 87,877 pounds per car, moved from Webb City to Beatrice, by way of Kansas City, Mo., either over the Missouri Pacific Railway and Union Pacific Railroad, 346 miles; Missouri Pacific and Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, 345 miles; or the St. Louis & San Francisco Railroad, hereinafter called the Frisco, and the Burlington, 348

¹ The report also embraces No. 8703 (Sub-No. 1), *Same v. Missouri Pacific Railway Company et al.*; No. 8703 (Sub-No. 2), *Ford Paving Company v. Missouri Pacific Railway Company et al.*; and No. 8703 (Sub-No. 3), *Same v. St. Louis & San Francisco Railroad Company et al.*

miles. Charges were collected at a joint rate of 11 cents on the shipments which moved over the Missouri Pacific-Burlington and the Frisco-Burlington routes, and at a combination rate of 11 cents on the shipments which moved over the Missouri Pacific-Union Pacific route, composed of a commodity rate of 4 cents to Kansas City and the class E rate of 7 cents, governed by the western classification, beyond. Based on the average distance of approximately 846 miles, the 11-cent rate yields 6.36 mills per ton-mile. Complainants particularly refer to a rate of 7.5 cents on chatts, applicable over the Missouri Pacific and also over the Frisco in connection with the Burlington, from Webb City to Lincoln, which rate also applies to Omaha. Based on the average distance over these routes to Lincoln of 364 miles, the 7.5-cent rate yields 4.12 mills per ton-mile. Defendants show that the rate on chatts from Webb City to Lincoln is very low and is made by the Missouri Pacific, with a single-line haul, to meet competition of stone and gravel, which competition they do not consider so forceful at Beatrice. The rate to Lincoln over the Frisco and the Union Pacific is 9 cents, and Beatrice is intermediate over this route. This fourth section departure is protected by an appropriate application which was not set for hearing with these cases. While defendants at the hearing expressed a desire to eliminate this departure by increasing the rate to Lincoln, they have since accomplished it in part by reducing the Beatrice rate to 9 cents, applicable over the Missouri Pacific-Burlington, Missouri Pacific-Rock Island, Missouri Pacific-Union Pacific, and Frisco-Union Pacific routes.

Complainants refer to rates on chatts between other points that are lower than the rates attacked. Defendants refer to rates that are higher than those assailed. The existence of the lower rates referred to is not sufficient to demonstrate that the rates in issue were or are unreasonable.

Complainants also point out that the rates from points adjacent to Webb City to Beatrice on cement, brick, and coal, which are more valuable and involve greater transportation risk than chatts, are 10 cents and 10.5 cents per 100 pounds and \$1.55 per ton of 2,000 pounds, respectively. But neither cement, brick, nor coal competes with chatts, and, unlike the other commodities named, the movement of chatts is irregular and practically confined to points at which construction work is being done and to the period of construction.

We find that the rates assailed are not shown to have been unreasonable, and an order dismissing the complaints will be entered.

46 I. C. C.

No. 8902.

CREAMERY PACKAGE MANUFACTURING COMPANY

v.

**ST. LOUIS & SAN FRANCISCO RAILROAD
COMPANY ET AL.**

Submitted September 28, 1916. Decided July 9, 1917.

Rate legally applicable on wooden hoops in carloads from Bay City, Mich., to Blytheville, Ark., found to have been unreasonable. Reparation awarded.

A. L. Uttermark for complainant.

R. R. Lethem for St. Louis & San Francisco Railroad Company and its receivers.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of dairy supplies, butter and cheese packages, and creamery and dairy machinery, with its principal place of business at Chicago, Ill. By complaint, filed April 28, 1916, it alleges that the rates applied on 30 carloads of wooden hoops, or cooperage stock, shipped from Bay City, Mich., to Blytheville, Ark., during the period from May 27, 1913, to August 27, 1915, inclusive, were unreasonable to the extent that they exceeded 29 cents per 100 pounds on some of the shipments and 29.8 cents on others. Reparation is asked. Claims covering all of the shipments which moved more than two years prior to the filing of the complaint were presented to the Commission informally within the statutory period. Rates are stated in cents per 100 pounds.

All of the shipments moved over the Pere Marquette, Chicago & Eastern Illinois, and St. Louis & San Francisco railroads, either through St. Louis, Mo., or Thebes, Ill. A joint class D rate of 32 cents was legally applicable, but on some of the shipments higher rates were applied, resulting in overcharges. One shipment, which moved May 27, 1913, was charged at the 32-cent rate, but subsequently \$4.56 of the charge collected was refunded, resulting in an undercharge.

At the time of movement the rate from Bay City to St. Louis was 15 cents. Contemporaneously the St. Louis & San Francisco maintained a rate of 12 cents on forest products, including wooden hoops,

from Blytheville to St. Louis, and upon complainant's request defendants agreed to establish a rate of 29 cents from Bay City to Blytheville, based upon the rate of 15 cents to St. Louis and 14 cents, or 2 cents over the northbound rate, St. Louis to Blytheville. Accordingly, on June 10, 1914, defendants established a rate of 29 cents to Blytheville, but through error showed the point of origin as Bay City, Wis. Effective August 30, 1915, the error was corrected by the elimination of Bay City, Wis., from the commodity item and the establishment of a rate of 29.8 cents from Bay City, Mich., to Blytheville, the increase of 0.8 cents in the rate from Bay City to St. Louis, following *The Five Per Cent Case*, 31 I. C. C., 351. The 29.8-cent rate, which is still in effect, applies by way of either St. Louis or Thebes.

Defendants submitted an application upon our special docket, requesting authority to make reparation upon two of the shipments involved herein, and admitting that the 32-cent rate was unreasonable. At the hearing they offered no evidence in defense of the rate attacked.

We find that the rate legally applicable was unreasonable to the extent that it exceeded the rate of 29 cents on shipments that moved within the period of limitations prior to June 10, 1914, and a rate of 29.8 cents per 100 pounds on shipments that moved on and subsequent to that date; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rates herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined on the present record, and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. The statement may include any outstanding overcharges. Collection of the undercharge above mentioned may be waived.

As the rate of 29.8 cents has been in effect for more than one year, no order for the future is necessary.

46 I. C. C.

No. 8980.
AYER & LORD TIE COMPANY
v.
ILLINOIS CENTRAL RAILROAD COMPANY ET AL

Submitted January 30, 1917. Decided July 9, 1917.

Charges on various carloads of crossties, from points in Mississippi and Alabama, to Chicago, Ill., and Indianapolis, Ind., stopped and treated at Carbondale, Ill., and forwarded thence to destination, found to have been unreasonable. Reparation awarded.

Charles C. Grassham for complainant.

A. P. Humburg for Illinois Central Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is a corporation dealing in crossties at Chicago, Ill., with a timber-preserving plant at Carbondale, Ill. By complaint, filed April 27, 1916, it alleges that the charges collected by defendants for the transportation of certain carloads of crossties from various points in Alabama and Mississippi to Chicago and Indianapolis, Ind., through Carbondale, Ill., in May, June, July, and August, 1914, were unreasonable to the extent that the charges beyond Carbondale exceeded those that would have accrued at rates of 10 cents per tie to Chicago and 8 cents per tie to Indianapolis, respectively. Reparation is asked.

The shipments consisted of pine crossties 7 inches by 8 inches by 8½ feet. They moved to Carbondale either over the Illinois Central all the way or over that line from junctions with connecting defendant lines south of Cairo, Ill. Before the ties moved they had been sold by complainant f. o. b. Chicago and Indianapolis, but were billed to Carbondale so that they could be treated at complainant's preserving plant. The ties were treated at Carbondale and within a few days after arrival were forwarded by way of the Illinois Central to Chicago and Indianapolis, respectively. No joint through rates were in effect from the points of origin to Chicago and Indianapolis under which the ties could have been treated in transit at Carbondale. Charges up to Carbondale were properly collected at rates ranging from 18 cents to 21 cents per 100 pounds and from Carbondale to Chicago and Indianapolis at rates of 10 cents per 100 pounds. It is stated that after being treated at Carbondale the average weight of the ties shipped was 206 pounds.

The tariff of the Illinois Central, in effect when the shipments moved, named rates on crossties 6 inches by 8 inches by 8 feet from Carbondale of 8 cents per tie to Chicago and 6 cents per tie to Indianapolis, regardless of the point at which the Illinois Central received them. This tariff also named rates on crossties of greater dimensions than "6 inches by 8 inches by 8 feet but not exceeding 7 inches by 9 inches by 8½ feet" from Carbondale of 10 cents per tie to Chicago and 8 cents per tie to Indianapolis, applicable on shipments received by the Illinois Central from connecting lines at Cairo. On December 2, 1914, following *The Five Per Cent Case*, 31 I. C. C., 351, the Illinois Central established rates from Carbondale of 10.8 cents per tie to Chicago and 8.7 cents per tie to Indianapolis, applicable on ties of the dimensions shipped by complainant, received by that carrier at Cairo or at points south thereof. These rates are still in effect and are satisfactory to complainant.

The Illinois Central states that there were and are no transportation or other conditions warranting higher charges on crossties from Carbondale to Chicago and Indianapolis received by it at points south of Cairo than on shipments received by it at Cairo. This defendant states that the absence of the same rates on shipments received by it at points south of Cairo as at the latter point was due to a clerical error.

We find that the charges collected were unreasonable to the extent that the charges for the transportation from Carbondale exceeded those that would have accrued at rates of 10.8 cents per tie to Chicago and 8.7 cents per tie to Indianapolis. We further find that the complainant made the shipments as described and paid and bore the charges thereon herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined upon the present record, and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, together with the number of ties in each car from the transit point, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

46 I. C. C.

No. 9082.

NATIONAL WHOLESALE LUMBER DEALERS
ASSOCIATION

v.

LOUISVILLE & NASHVILLE RAILROAD COMPANY ET AL.

Submitted April 14, 1917. Decided July 10, 1917.

Charges on a carload of lumber from Chapman, Ala., to Cairo, Ill., reconsigned to Bridgewater, Mich., found unlawful and unreasonable. Reparation awarded.

W. S. Phippen for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a voluntary association of lumber dealers and manufacturers with headquarters at New York, N. Y. By complaint, filed July 24, 1916, on behalf of Bradley, Miller & Company, one of its members, hereinafter called complainant, a corporation engaged in the lumber business at Bay City, Mich., it is alleged that the combination rate of 39 cents per 100 pounds charged by defendants on a carload of yellow-pine lumber shipped April 1, 1914, from Chapman, Ala., to Cairo, Ill., reconsigned to Bridgewater, Mich., was unreasonable to the extent that it exceeded a joint rate of 28 cents per 100 pounds from Chapman to Bridgewater. Reparation is asked. The claim was presented to the Commission informally December 6, 1915. Rates are stated in cents per 100 pounds.

The shipment was originally consigned to Cairo, care of Cleveland, Cincinnati, Chicago & St. Louis Railway, hereinafter called the Big Four, and moved from Chapman over the Louisville & Nashville Railroad to Nashville, Tenn.; Nashville, Chattanooga & St. Louis Railway to Martin, Tenn.; and Illinois Central Railroad to Cairo. On April 4, 1914, complainant directed the Big Four to reassign the shipment to Bridgewater, Lake Shore & Michigan Southern Railway, now New York Central Railroad, delivery. On April 13, 1914, the Big Four received the shipment from the Illinois Central at Cairo whence it moved over the Big Four to Elkhart, Ind., and Lake Shore & Michigan Southern to Bridgewater. The shipment weighed 87,100 pounds and charges were collected thereon in the sum

of \$144.69 at a combination rate of 39 cents, composed of a rate of 15 cents from Chapman to Nashville, 10 cents from Nashville to Cairo, and 14 cents from Cairo to Bridgewater. A joint rate of 28 cents contemporaneously applied over the route of movement from Chapman to Bridgewater, and the Louisville & Nashville tariff naming it provided that shipments moving to points beyond the tracks of the Louisville & Nashville would be subject to the rules and regulations of the individual carriers covering the various services, including reconsignment.

The Big Four tariff authorized the reconsignment at Cairo of lumber, in carloads, received at that point from connecting lines at the through rate from points of origin to ultimate destination, without additional charge, provided "(a) all the roads over which the shipment travels will join in protecting the through rate." The shipment was not accorded the joint rate apparently because some of the carriers, being unwilling to shrink their revenue derived from the combination rate to the basis of the revenue they would derive from the joint rate, refused to accede to the application of the joint rate. On July 1, 1915, the above-quoted proviso was eliminated.

We have frequently held that tariff provisions should be so framed as to admit of no uncertainty, condition, or discrimination in their application. This is in fact but an announcement of one of the plainest and most necessary requirements both of the act to regulate commerce and of our tariff regulations.

We find that the tariff provision in question was unlawful and imposed uncertain and unreasonable conditions upon the shipper here concerned, and that the charges collected were unlawful and unreasonable to the extent that they exceeded the charges that would have accrued had the unlawful provision been omitted. We further find that Bradley, Miller & Company made the shipment as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the joint rate of 28 cents per 100 pounds; and that it is entitled to reparation in the sum of \$40.81, with interest.

An order awarding reparation will be entered, but as the Big Four has eliminated the unlawful provision from its tariff and now permits reconsignment at the joint rate, no order for the future is necessary.

46 I. C. C.

No. 8576.
GULF ATLANTIC STEAMSHIP COMPANY
v.
ATLANTIC COAST LINE RAILROAD COMPANY.

Submitted June 14, 1916. Decided July 5, 1917.

Upon petition of complainant, a boat line, for the establishment of through routes and joint rates between Caloosahatchee River landings, in the state of Florida, and various destinations on the line of the defendant and its connections, upon the same basis as its competitor Caloosahatchee River Steamboat Company, *Held*: That refusal of defendant to participate in through routes and joint rates with complainant's boat line is unduly prejudicial to complainant and unduly prefers complainant's competitor.

Randell & Lawler for complainant.

R. Walton Moore and *Edward H. Hart* for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is an incorporated common carrier, engaged in the transportation business on the Caloosahatchee River in Florida. By complaint, filed December 24, 1915, as amended, it alleges that defendant unjustly discriminates against complainant and unduly prefers the Caloosahatchee River Steamboat Company, known as, and hereinafter called, the Menge line, a competing water carrier, in that while it maintains through routes and joint rates with the Menge line between Caloosahatchee River landings and various points on defendant's line and the lines of its connections, it refuses to join with complainant in the establishment of such through routes and joint rates. The establishment of reasonable joint rates to New York, N. Y., Philadelphia, Pa., Boston, Mass., Baltimore, Md., and Jacksonville, Fla., is asked.

All the points to which complainant asks joint rates, except Jacksonville, are served by carriers not parties defendant. The movement to Jacksonville is wholly intrastate and therefore not subject to our jurisdiction. Defendant argues that the complaint should be dismissed for want of proper parties. While we could not establish through routes and joint rates with carriers not parties defendant, the essence of the complaint is discrimination under the second paragraph of section 3, which defendant is in a position to remove, and we have, therefore, considered the record as made in order that the case may be disposed of on its merits.

Our jurisdiction in the subject matter is unquestioned, but defendant argues that sections 2 and 3 of the act have no application to the establishment of through routes and joint rates and should not be considered in connection therewith.

Complainant was organized in 1914 under the laws of the state of Florida with a capital stock of \$100,000, of which approximately \$15,000 is paid up. Since November 1, 1915, it has operated a passenger and freight boat line between Fort Myers and Fort Denaud, Fla., 27½ miles. There is scheduled one trip in each direction on alternate days. Complainant represents that it has arranged to extend its service to points between Fort Denaud and La Belle, Fla., which latter point is 15 miles beyond Fort Denaud. Its equipment consists of one new steamer which is said to have cost \$15,000 and to have a capacity of 800 boxes of citrus fruit. Testimony was offered on complainant's behalf with respect to its financial condition and receipts and disbursements since its organization, but the pertinent facts are not fully or clearly disclosed.

For some 20 years or more the Menge line has operated a passenger and freight boat line between Fort Myers and La Belle; also between Fort Myers and points on the Orange River, a tributary of the Caloosahatchee River. Round trips are scheduled daily. Its equipment consists of four steamers of a combined capacity of 4,300 boxes of citrus fruit and three barges and a gasoline launch of a combined capacity of 3,900 boxes. The present value of these boats is represented as being approximately \$32,000. Defendant maintains in connection with this line joint rates on citrus fruit from the river landings in question to Jacksonville and to interstate destinations on defendant's line; also to New York and the other points named, via all-rail and rail-and-water routes. Joint rates are also maintained all-rail and rail-and-water from Fort Myers and from Fort Myers docks to the destinations in question.

It appears that the area of production in the section of Florida involved is limited, and that substantially two-thirds of the traffic handled by water lines consists of citrus fruit, of which from 250,000 to 300,000 boxes are handled annually. Citrus fruit is a highly perishable commodity which demands a reliable and expeditious service, and, as there are no wagon roads in this section, shippers are entirely dependent upon the river transportation to reach rail connections. While it is admitted that there is sufficient traffic during the shipping citrus fruit period to justify the operation of two, and perhaps three, lines, it is represented by defendant that during the summer seasons the Menge line has been operating at a loss of from \$80 to \$600 per month; that during the year 1914 that line was forced into bankruptcy; and that during the past years several unsuc-

cessful attempts have been made by other boat lines to compete for this traffic.

Complainant relies upon our decision in *Decatur Navigation Co. v. L. & N. R. R. Co.*, 31 I. C. C., 281. In that case we found that the refusal of defendant rail carriers to join with the Decatur Navigation Company, a boat line, in the establishment of through routes and joint rates from Tennessee River landings to destinations on defendants' lines and connections, the same as those published by defendants in conjunction with the Tennessee River Navigation Company, was unjustly discriminatory and unlawful, and defendants were required to join with complainant in the establishment of such routes and rates.

Complainant represents that it has arranged to charter tugboats and barges to provide for whatever increased tonnage it may secure by reason of the through routes and joint rates requested; that it is financially responsible and ready to give bond in whatever amount we may specify. In reply to the contention of defendant in this matter of the financial conditions of the two boat lines, it calls attention to the fact that whereas the Menge line has been in the past forced into bankruptcy and is at present indebted to the Atlantic Coast Line to the extent of from \$3,000 to \$4,000, complainant has realized during the six months of its operation a net revenue of \$1,000.

Defendant observes that in the *Decatur Navigation Co. Case*, *supra*, as well as in *Cumberland Transportation Co. v. C., N. O. & T. P. Ry. Co.*, 37 I. C. C., 463, we found that a public necessity existed for two boat lines by reason of the following facts: In the former, that the service of the old line was very unsatisfactory; that the traffic was sufficient to support two boat lines; and that the competition would not only be productive of additional traffic but was necessary to improve the character of the service; and, in the latter, that the operation of the new line resulted in a service more regular and frequent and with lower rates than had previously been maintained by the old line; and that the new line extended to points considerably distant from the points served by the old line.

It is urged by defendant that in the present case there is not sufficient traffic in this territory to support two boat lines; that the competition which will occur by reason of the granting of the relief prayed will inevitably result in both lines operating at a loss, and both eventually being driven out of business, or forced to remove their boats to other territory. It further contends that the shippers do not desire such competition, but are satisfied that the field be left entirely to the Menge line. In reply it is sufficient to remark that the granting of through routes and joint rates in connection with

complainant can in no way affect those shippers who stated of record that the service of the Menge line is satisfactory, for they can continue to patronize the Menge line even though the prayer of the complaint be granted. Moreover, the testimony relating to the character of the service offered by the Menge line is at best conflicting, defendant's witnesses testifying that it is all that is to be desired, while complainant names various shippers who have abandoned the Menge line and shipped their fruit via complainant's line, because of what they designated inadequate and inefficient service of the former. Furthermore, complainant shows that it handles 75 per cent of the merchandise up the river, and a substantial percentage of the tonnage down. If the service of the Menge line be not satisfactory to some shippers, the existence of another line on an equal basis must of necessity have a wholesome effect in bettering, or providing an incentive for bettering, that service.

In the *Decatur* and *Cumberland Cases*, *supra*, we stated that a navigable river, being a natural highway, should be thrown open as far as possible to the free and unrestricted use of all those who desire to avail themselves of it, and that a responsible common carrier operating thereon is *prima facie* warranted in asking for the establishment of through routes and joint rates with rail lines reaching the river.

The issue herein is in many respects similar to that considered in the *Decatur Navigation Case*, *supra*. There is one distinction to be noted, however, in that in that case it was clearly shown that the service of the existing boat line was far from satisfactory to shippers, whereas in the case at bar the evidence on this score is conflicting. Without determining whether unchallenged excellence of service would warrant us in declining to open a competitive route, the situation here disclosed does not justify us in sanctioning an arrangement restricting the field and excluding therefrom a line which seeks entry upon the same basis as that enjoyed by its competitor.

We are of opinion and find that defendant's present practice of participating in through routes and joint rates with the Menge line while refusing to do so with complainant results in undue disadvantage against complainant and unduly prefers its competitor. Defendant will be expected to remove this discrimination.

It has been pointed out that while there is sufficient traffic during the busy season to enable both lines to operate at a profit, the Menge line during the summer months has been operating at a loss in order to serve the inhabitants of this river territory, who are practically dependent upon such water service. It would of course be improper for us to approve any arrangement whereby complainant might operate its line during the busy season only, while leaving the service in

the period of unremunerative operation to the Menge line. Should the defendant elect to remove the undue prejudice and discrimination by according through routes and joint rates to the complainant boat line, the latter will be expected to furnish service in the summer months as well as in the season of heavier traffic, failing which defendant may bring the matter to our attention.

As above stated, complainant has offered to give bond in any sum which this Commission may specify to protect defendant in its participation in through rates with complainant's line. If the requirement to remove discrimination be complied with by defendant's entering into through routes and joint rates with complainant it is suggested that the parties endeavor to agree upon the amount of such bond; in the event of failure to reach such agreement, a specific sum will be fixed by us upon request.

An order will not be entered for the present for the reason that the complainant's specific petition for through routes and joint rates applies only to five destination points, four of which are not reached by the sole defendant and the fifth involves only an intra-state haul. The report finds existing unjust discrimination against the complainant under the second paragraph of section 3 of the act, and the removal of this undue prejudice is required. Should the sole defendant elect to remove the undue prejudice by joining with complainant in through routes and joint rates, complainant may still find that it is not accorded joint rates to any point beyond the sole defendant's lines, nor could we on the pleadings establish through routes and joint rates that would involve carriers not made parties to the case. In such circumstances, complainant would be required to file an amended petition in which there are joined as defendants, connections of the Atlantic Coast Line reaching the interstate destination points to which complainant specifically asks through routes and joint rates.

46 I. C. C.

No. 8997.
JEWEL TEA COMPANY, INCORPORATED,
v.
PENNSYLVANIA COMPANY ET AL.

Submitted February 5, 1917. Decided July 10, 1917.

Rates of \$1.15 per 100 pounds on earthenware in carloads, from Sebring and East Liverpool, Ohio, to San Francisco, Cal., and \$1.20 per 100 pounds from Niles, Ohio, and East Liverpool, to Los Angeles, Cal., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

H. N. Williams and *G. A. Rausch* for complainant.
Robert Dunlap, T. J. Norton, and F. E. Andrews for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the tea and coffee business at Chicago, Ill. By complaint, filed June 28, 1916, it alleges that the rates of \$1.15 per 100 pounds charged by defendants on three carloads of earthenware, shipped from Sebring and East Liverpool, Ohio, to San Francisco, Cal., in November, 1915, and January, 1916, and \$1.20 per 100 pounds on three carloads of the same commodity shipped from Niles, Ohio, and East Liverpool, to Los Angeles, Cal., in November, 1915, were unreasonable and excessive to the extent that they exceeded 95 cents to San Francisco and \$1 to Los Angeles. Reparation is asked. Rates are stated in amounts per 100 pounds.

The question is one of tariff interpretation. In item 400 of agent Countiss's tariff I. C. C. No. 996, effective November 15, 1914, defendants published a carload commodity rate of \$1.15, minimum 24,000 pounds, on earthenware, from the points of origin to both San Francisco and Los Angeles. In item 1122 of this tariff defendants also published a carload commodity rate of 95 cents, minimum 24,000 pounds, on earthenware from and to the same points. The latter item also contained less-than-carload rates. After I. C. C. No. 996 was filed and prior to November 15, 1914, defendants advised us that the 95-cent rate was published in error, and special permission was granted to cancel this rate, effective November 15, 1914. This cancellation was accomplished in item 1122-A in supplement No. 1 to I. C. C. 996, effective November 15, 1914, the latter item canceling item 1122, and in the column provided for carload rates stating

"Cancel. Rates named in item 400 of tariff (or as supplemented) will apply." The less-than-carload rates, however, named in item 1122 were reissued in item 1122-A. The carload rate of 95 cents, named in item 1122 of the tariff, did not therefore become effective on November 15, 1914. Item 1122-A, including the note referring to item 400 for carload rates, was reissued in succeeding supplements up to and including supplement No. 9, which became effective on April 30, 1915. On August 15, 1915, item 1122-B in supplement No. 16 canceled item 1122-A in supplement No. 9 and referred to items 1122-1, 1122-2, 1122-3, 1123, and 1123-1 in the supplement for less-than-carload rates. No carload rates were shown in item 1122-B, nor was there any reference to the item where such rates would be found, the notation previously shown in item 1122-A referring to item 400 in the tariff for such rates being omitted. In supplement No. 16 it was provided in item 24½ that shipments from the points of origin to Los Angeles would be charged certain arbitraries over the rates to the California terminals. The arbitrary on earthenware in carloads was 5 cents, which, added to the rate of \$1.15 shown in item 400 of the tariff, made the rate to Los Angeles \$1.20.

On October 18, 1915, supplement No. 19 canceled supplement No. 9, and in accordance with rule 9 (c) of Tariff Circular 18-A, contained on its title-page the following notation: "Supplements Nos. 16 and 19 contain all changes from the original tariff that are effective on the date hereof." Item 1122-B in supplement No. 16, also the item established in supplement No. 16 which had the effect of increasing the rate to Los Angeles 5 cents over the rate to California terminals, remained in effect in substantially the same form until March 6, 1916, when I. C. C. No. 996 was canceled by I. C. C. No. 1019. The only commodity rates named in the latter tariff on earthenware, in carloads, from the points of origin to San Francisco and Los Angeles are \$1.15 and \$1.20, respectively. As alleged, the shipments in question moved in November, 1915, and January, 1916.

Complainant does not contend that the carload rate of 95 cents was not properly canceled on November 15, 1914, in supplement No. 1, nor is it claimed that complainant was not aware of such cancellation at the time the shipments were made. Its position is that the failure to reissue in item 1122-B of supplement No. 16 the notation "Cancel. Rates named in item No. 400 of tariff (or as supplemented) will apply" automatically established, on August 15, 1915, in item 1122 of the tariff, a carload rate of 95 cents from the points of origin to San Francisco, and in connection with item 24½ in supplement No. 16 a carload rate of \$1 to Los Angeles; and that as these rates were lower than the rates of \$1.15 to San Francisco named in item 400 and \$1.20 to Los Angeles made by using the rate named in this item

in connection with item 24 $\frac{1}{2}$ they were legally applicable to the shipments in issue. In support of its position complainant refers to rule 8 (f) of Tariff Circular 18-A, which reads as follows:

When the items in a tariff or a supplement are designated by item numbers, the cancellation of an item must be under the same item number; for example, item 41-A cancels item 41. If a canceled item or any part thereof is taken up and thereafter carried in another item of different number, the cancellation must be carried under the original item number, and must show in what item or items the effective rates are to be found, and the cancellation of the item in the original tariff or supplement must be brought forward in successive supplements as a reissued item as long as the cancellation is in force.

and also to Conference Ruling No. 239, in which we held that where a tariff contains conflicting rates the lower or lowest of the rates so published is the legal rate, which ruling has reference to instances where conflicting rates are established on the same date. By the cancellation on November 15, 1914, in supplement No. 1, of the 95-cent rate, the \$1.15 rate was the only legal rate effective on that date.

While the failure to bring forward in item 1122-B, in supplement 16, notice of the cancellation of the 95-cent rate was not strictly in accordance with rule 8 (f), we do not find that such failure had the effect of automatically establishing the 95-cent rate. Assuming that such failure did have the effect of publishing the 95-cent rate effective August 15, 1915, we would still be constrained to hold that \$1.15 was the legal rate, as a commodity rate once legally established remains in effect and is the only legal rate until canceled, notwithstanding a subsequently published conflicting rate.

The object of rule 8 (f) is to afford shippers a means of determining what rates are in effect by consulting the tariffs and effective supplements. Had this rule been observed the present dispute would not have arisen.

We find that the rates charged were legally applicable and are not shown to have been unreasonable. An order dismissing the complaint will be entered.

46 I. C. C.

No. 8973.

PHILIP W. DIETLY

v.

NEW YORK CENTRAL RAILROAD COMPANY ET AL.

Submitted September 13, 1916. Decided July 10, 1917.

Rates on three tandem steam rollers from Erie, Pa., to San Francisco, Cal., found to have been legally applicable, and not shown to have been unreasonable. Complaint dismissed.

Milloy & Gilson for complainant.

D. P. Connell for New York Central Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant, Philip W. Dietly, is engaged in the manufacture of steam rollers, asphalt mixers, and paper machinery at Erie, Pa., under the trade name of Erie Machine Shops. By complaint, filed May 15, 1916, he alleges that the charges collected for the transportation of three tandem steam rollers from Erie to San Francisco, Cal., were unreasonable. Reparation is asked and the cancellation of an undercharge demanded by defendants. Rates are stated in amounts per 100 pounds.

On April 30, 1914, complainant verbally requested the initial carrier, the Lake Shore & Michigan Southern Railway, now the New York Central Railroad, hereinafter called defendant, to furnish a flat car about 50 feet in length. After waiting seven or eight days, defendant advised complainant that it was unable to furnish a car of the size ordered, but that under rule 27 of the official classification two smaller cars would be furnished, which could be used upon the basis of the rate and minimum weight attaching to a car of the size ordered. Two flat cars, one 35 feet and the other 36 feet in length, were accordingly supplied. Two 5-ton steam rollers, weighing 20,000 pounds, were loaded upon one car, and one 8-ton steam roller, weighing 15,600 pounds, upon the other. Charges in the total sum of \$684 were collected at the carload rate of \$1.50, minimum 30,000 pounds on the former, and at the carload rate and actual weight on the latter. Subsequently, additional charges of \$78 were assessed on the 8-ton roller, representing the difference between the charges collected and those that would have accrued on basis of the less-than-carload rate of \$2. This undercharge is outstanding.

Complainant contends that under the tariffs in effect at the time of movement the charges should have been based upon the actual weight of the entire shipment at the carload rate of \$1.50; that he should not suffer damage by relying upon advice given by defendant; and that the defendants' "two for one" rule was unreasonable.

At the time of movement the tariff legally applicable contained a carload commodity rate on street rollers of \$1.50, minimum 30,000 pounds, and a less-than-carload commodity rate of \$2, applicable from Erie to San Francisco, but provided that these commodity rates were governed by special rules and conditions published therein. Rule 27 of the official classification was therefore inapplicable to the shipment in issue.

Rule 6 of the tariff above mentioned read in part as follows:

(B) Carrier will furnish car of dimensions or weight carrying capacity ordered by shipper, if practicable, but if carrier, for its convenience, furnishes car of different dimensions or weight carrying capacity the following rules will govern, provided shipment could have been loaded into or upon car of the size or capacity ordered by shipper. Orders will not be accepted for cars of less weight carrying capacity than the prescribed minimum weight governing rate applicable, nor for box cars exceeding 50 feet in length, nor for open cars exceeding 45 feet in length. (See note 2 below.)

(D) (Will not apply to bulk freight; i. e., freight which carriers will not accept in bulk for less carload shipment.) When car of smaller dimensions or less capacity is furnished actual weight will apply, provided it is loaded to its capacity; the balance of the shipment will be taken in another car at actual weight and carload rate, and the entire shipment will be subject to carload minimum weight applicable to car of dimensions or capacity ordered. (See notes 1 and 2 below.)

(E) When open car of specified length is ordered and two shorter cars are furnished, charges on the two cars will be assessed on basis applicable to car of length ordered. (See note 2 below.)

Note 2 limited the application of rule 6, paragraphs B to F, inclusive, to traffic originating at New York piers of Southern Pacific Company-Atlantic Steamship lines, Morgan line, Mallory Steamship Company, and Old Dominion Steamship Company, and at certain other points, not including Erie, designated in the tariff. Rule 6 was not therefore applicable to this shipment.

The tariff also provided that:

When the minimum carload weight or more is shipped in one day by one consignor to one consignee, covered by one bill of lading, the established rate for a carload shall apply on the entire lot although it may be less than two or more full carload lots. The first car or cars must be loaded to their capacity, and are subject to established rules for minimum weights, the actual weight of the remainder, provided it is loaded in box cars to be charged for at the carload rate, reference being made on the waybill for the remainder of the lot to the waybill for the full carload or loads.

This rule, it will be noted, applied only where the excess or remainder is loaded in a box car, and therefore was not applicable to this shipment which moved on flat cars. On February 8, 1915, the rule was changed to permit loading of the excess upon open cars at the car-load rate subject to a minimum charge of 5,000 pounds at the first-class rate.

Complainant offered no evidence to show that the inapplicability of the "two for one" rule to shipments from Erie was unreasonable. The mere failure of carriers to provide "two for one" rules is not *prima facie* unreasonable unless graduated minimum weights are provided for cars of different sizes. *Lalanc & Grosjean Mfg. Co. v. L. I. R. R. Co.*, 39 I. C. C., 637.

With respect to complainant's contention that he was misinformed as to the rates applicable, we have repeatedly held that the misquotation of a rate by a carrier's agent affords no ground for a departure from the legally established rate. *A. J. Poor Grain Co. v. C., B. & Q. Ry. Co.*, 12 I. C. C., 418.

Upon the record we find that the rates assessed were legally applicable and that neither the tariff rule attacked, nor the charges assessed are shown to have been unreasonable, and an order dismissing the complaint will be entered.

46 I. C. C.

No. 8810.
LAKE SHORE STONE COMPANY ET AL.
v.
CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY.

Submitted October 17, 1916. Decided July 9, 1917.

Rate on crushed stone and rough stone in carloads from Lannon, Wis., to Chicago, Ill., found to be unreasonable. Reasonable maximum rate prescribed for the future.

H. N. McEwen and A. M. Campbell for complainants.
O. W. Dynes and J. N. Davis for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainants are corporations and an individual, engaged in the stone business at Lannon, Wis. By complaint, filed April 13, 1916, they allege that defendant's rate of $3\frac{1}{4}$ cents per 100 pounds on stone in carloads from Lannon to Chicago, Ill., is unreasonable and unjustly discriminatory to the extent that it exceeds 2 cents per 100 pounds. The establishment of a reasonable and nondiscriminatory rate for the future is asked. Rates are stated in cents per 100 pounds.

Lannon, a local point on defendant's North Lake branch extending from Granville, Wis., to North Lake, Wis., is 108 miles from Chicago and transportation between those points is entirely over defendant's lines. The complainants ship approximately 4,000 carloads of stone annually, on which the freight charges are estimated to be from \$75,000 to \$92,000. There are also several other smaller quarries in operation at that point. One of complainants' principal competitors is located at Waukesha, Wis., a point served by the defendant, the Chicago & North Western Railway, hereinafter called the North Western, and the Minneapolis, St. Paul & Sault Ste. Marie Railway, hereinafter called the Soo line, over which lines Waukesha is distant from Chicago 105.9, 104.6, and 97 miles, respectively.

In 1899 the rate on stone in carloads from Lannon to Chicago was reduced from 4 cents to $3\frac{1}{4}$ cents, the rate maintained by defendant on stone from Waukesha to Chicago; and the same rates continued in effect from both points until May 21, 1913, when the rate from Waukesha was reduced to 2 cents, the rate prescribed as reasonable

in *Waukesha Lime & Stone Co. v. C., M. & St. P. Ry. Co.*, 26 I. C. C., 515. Prior to this reduction Chicago had been one of the principal markets for stone produced at Lannon. Since that time no stone has been shipped from Lannon to Chicago, due, complainants contend, to the reduction in the Waukesha rate. In *Crushed Stone from Wisconsin Points*, 37 I. C. C., 593, we found that the North Western and the Soo line had not justified proposed increases of one-half cent in the carload rates of 2 cents in effect on crushed stone from Waukesha to Chicago.

Complainants rely chiefly upon our findings in *Waukesha Lime & Stone Company Case*, *supra*; the long-standing parity between the rates on stone from Waukesha and Lannon to Chicago, and the fact that the difference in distance via defendant's lines is only 2.1 miles. On the first four classes the rates from Lannon to Chicago are the same as from Waukesha to Chicago; the fifth-class rate from Lannon is higher by 2 cents, and the rates on the lettered classes are higher by 1 cent than the corresponding rates from Waukesha. The western classification rates crushed stone class E. The defendant's ton-mile earnings under the $3\frac{1}{4}$ -cent rate from Lannon and the 2-cent rate from Waukesha to Chicago are 6.17 mills and 3.77 mills, respectively. A 2-cent rate from Lannon would yield ton-mile earnings of 3.703 mills.

Defendant asserts that conditions are dissimilar at Lannon and Waukesha, the latter being on one of its main lines, while the former is on a branch line. From Lannon to the junction of the defendant's North Lake branch with its main line from Milwaukee to Portage, Wis., is 7.7 miles. Traffic from both Lannon and Waukesha to Chicago is transported over the same line from Milwaukee to Chicago, a distance of 85.3 miles, which is more than three-fourths of the entire haul from either of the points of origin named.

Defendant submitted a statement to show the cost of transportation from Lannon to Chicago. This is, in part, based upon statistics purporting to show terminal costs at Chicago, which we considered in *Advances on Coal within Chicago Switching District*, 41 I. C. C., 302. In reference thereto we stated that we were not convinced of the soundness of the process by which the defendant arrived at the cost of such service, and there is nothing in the present record to warrant a different view. Defendant cited, by way of comparison, rates on stone from other points in Wisconsin to Chicago, which are relatively higher than the rate here in issue, but there is no showing as to the conditions surrounding their establishment and maintenance, and defendant admits that from some of them there may not be any movement of stone. It also cited rates

on stone between points in other territories which are higher than the rate assailed for the same or shorter distances, but it is not shown that there is any substantial similarity of transportation conditions.

Upon the record we find that the rate assailed is and for the future will be unreasonable to the extent that it exceeds and may exceed $2\frac{1}{2}$ cents per 100 pounds.

An order will be entered accordingly.

No. 9013.

ALBERTO MADERO

v.

EL PASO & SOUTHWESTERN RAILROAD COMPANY
ET AL.

Submitted December 15, 1916. Decided July 9, 1917.

Charges on cattle in carloads from Dryden, Tex., to Middlewater, Tex., over an interstate route, found to have been illegal. Reparation awarded.

Charles A. Kinkel for complainant.

W. M. Peticolas for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a resident of El Paso, Tex. By complaint, filed June 27, 1916, he alleges that the defendants' charges for the interstate transportation of 76 carloads of cattle from Dryden, Tex., to Middlewater, Tex., stopped at El Paso to be fed and rested, during the period from April 23, 1912, to May 8, 1912, inclusive, were unreasonable to the extent that they exceeded the charges that would have accrued based upon the joint rate contemporaneously in effect from Dryden to Middlewater. Reparation is asked. The claim was presented to the Commission informally March 28, 1914. Rates are stated in cents per 100 pounds except as otherwise indicated.

The shipments moved from Dryden to El Paso over the Galveston, Harrisburg & San Antonio Railway, billed to the City National Bank of El Paso. Upon arrival at that point the cattle were unloaded into pens used by the railroad for feeding and resting stock in transit. The period during which the cattle remained there is

46 I. C. O.

not definitely established of record; it is stated as "four or five days" and "about a week." At the expiration of this period the cattle were forwarded from El Paso to Middlewater through New Mexico over the lines of the other defendants, consigned to the First National Bank of Middlewater. Charges were assessed on the basis of a rate of 15½ cents to El Paso, and of per car rates beyond of \$63 for a 36½-foot car and proportionately higher charges for cars of greater length. Contemporaneously a joint rate of 32 cents applied on cattle in carloads over the route of movement.

No evidence was adduced bearing upon the reasonableness of the charges collected, and the only issue is with respect to their legality. The reasons advanced by defendants for assessing charges at the aggregate of the intermediate rates were that the billing under which the shipments moved from Dryden to El Paso did not indicate that the cattle were to be transported beyond; and that the change in consignee and destination after the shipments reached El Paso was not such a reconsignment as would under the applicable tariff rule entitle the shipments to the through rate. In view of the conclusion hereinafter reached it will not be necessary to consider the latter contention.

It appears that through shipments of cattle from Dryden to Middlewater moving at the joint rate of 32 cents could have been stopped to be fed and rested at El Paso and that the tariffs placed no limit upon the period during which they could be held there for that purpose. Defendants stated that cattle do not move on through billing, the execution of a separate contract being required for the transportation over each railroad. Apparently the only indication of the through character of a particular shipment is the notation on these contracts as to the ultimate destination.

The following is an extract from an agreed statement of facts filed by the parties:

The parties hereto also admit and agree that the agent of the defendant, the Galveston, Harrisburg & San Antonio Railroad Company at Dryden, Tex., made out all shipping contracts and papers in connection with the shipment in controversy; that said agent was informed by the agents of the complainant that the said shipment was a through shipment, destined to Middlewater, Tex., via El Paso, Tex., and any error made in preparing such shipping contracts and papers was due to the negligence of said defendant's agent. That because of the extremely weakened and impoverished condition of said cattle they were taken off the cars at El Paso, Tex., and were kept in the possession of the railroads in the stockyards at El Paso, Tex., for feeding and for the purpose of attempting to increase their strength so that they might more safely continue their journey to Middlewater, Tex.; * * * that the complainant never at any time stated that said cattle were destined for any other destination than Middlewater, Tex., where he had theretofore procured a pasture for the express purpose of pasturing said cattle thereon. The parties hereto

further admit and agree that though the said cattle were consigned into El Paso, Tex., to one bank and consigned to Middlewater, Tex., to another bank, that nevertheless said cattle were at all times the property of this complainant and that the said banks were noted as consignees solely for the purpose of securing them in certain loans made by them to this complainant.

It is well settled that the character and nature of the movement of the traffic, that is, whether the movement is a through or local movement, and not the mere accidents of billing, determine the nature of the commerce and the rate applicable. *Rates on Railroad Fuel and Other Coal*, 36 I. C. C., 1, 8, and other cases there cited.

We find that these were through shipments from Dryden to Middlewater and that the charges collected thereon were illegal to the extent that they exceeded the charges that would have accrued at the joint rate of 32 cents per 100 pounds legally applicable. We further find that complainant made the shipments as described and paid and bore the charges thereon; that he has been damaged to the extent of the difference between the charges paid and those which would have accrued at the rate legally applicable; and that he is entitled to reparation, with interest. The exact amount of reparation due can not be determined upon this record, and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

46 I. C. C.

No. 8245.

S. ROSENBLATT

v.

LOUISVILLE, HENDERSON & ST. LOUIS RAILWAY
COMPANY ET AL.

Submitted November 22, 1915. Decided July 9, 1917.

Rate of 95.2 cents per 100 pounds for the transportation of eggs, any quantity, without refrigeration, from Hawesville, Ky., to New York, N. Y., not shown to be unjust or unreasonable. Complaint dismissed.

E. C. Vance for complainant.

J. R. Skillman for Louisville, Henderson & St. Louis Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is engaged in the purchase and sale of produce at Hawesville, Ky. By complaint, filed August 21, 1915, he alleges that defendants' rate of 95.2 cents per 100 pounds for the transportation of eggs, any quantity, without refrigeration, from Hawesville to New York, N. Y., is and for the future will be unjust and unreasonable to the extent that it exceeds 78.7 cents.

Hawesville is on the line of the Louisville, Henderson & St. Louis Railway, on the south bank of the Ohio River, between Owensboro on the west and Louisville on the east. The present through rate from Hawesville to New York on eggs, any quantity, without refrigeration, in the absence of a joint rate, is 95.2 cents per 100 pounds, under the application of rule 5-B of the Commission's Tariff Circular 18-A, which rate is composed of a rate of 17 cents to Owensboro, Ky., and a rate of 78.2 cents beyond. Two routes are provided: One through Louisville, Ky., which is the short route; the other through Owensboro and Evansville, Ind.

Complainant challenges the reasonableness of the 95.2-cent rate for the reason that the rate on eggs shipped to New York in a similar manner from Cannelton, Ind., directly across the Ohio River from Hawesville, is 71.7 cents per 100 pounds by way of the Southern Railway and its connections. But the existence of a lower rate over another line from Cannelton is not enough to establish the unreasonableness of the rate from Hawesville by way of Louisville.

Most of the egg traffic from Hawesville to New York moves through Louisville and at a higher rate than applies from Owens-

boro or Evansville, although Hawesville is intermediate to Louisville from Owensboro and Evansville. These departures are protected by Fourth Section Application No. 1065 of the Louisville, Henderson & St. Louis Railway Company, which has recently been heard. The complaint, however, did not allege a departure from the long-and-short-haul rule of the fourth section and consequently no portion of the application was set for hearing with the complaint. Disposition of this case has been delayed awaiting the announcement of our conclusions on the fourth section question here presented. On May 29, 1917, after the hearing in this case and pursuant to the application of the Louisville, Henderson & St. Louis Railway, and hearing thereon, we issued Fourth Section Order No. 6727 to take effect on or before December 1, 1917. This order authorized the continuance of class and commodity rates from Evansville, Ind., to New York, N. Y., the same as the rates in effect via the short line from and to those points and the maintenance of higher rates from intermediate points, provided the rates from intermediate points shall not exceed 120 per cent of the rates on like traffic from Chicago, Ill., to New York and that the rates from intermediate points shall not exceed the lowest available combination, except that the rates from Henderson, Ky., were limited to 3 cents over Evansville on the first four classes and 2 cents on the fifth and sixth classes. On the basis of 120 per cent of the Chicago-New York second-class rate of 68.3 cents applicable on eggs in packages, in less than carloads, the rate from Hawesville to New York will be 82 cents, which is lower than the lowest combination and defendants are required to establish this rate if they desire to avail themselves of the authority granted in the Commission's order.

Eggs apparently are moved across the Ohio River from Hawesville to Cannelton by an independently operated ferry, at a rate of 5 cents per case, which rate is said to be equivalent to 7 cents per 100 pounds. The aggregate of the ferry rate and of the rate from Cannelton to New York equals the rate which complainant asks to have established from Hawesville to New York. Whatever may be the participation of any of the defendants herein in the rate from Cannelton, the complaint does not allege that the rate assailed is unjustly discriminatory or unduly prejudicial.

Defendant Louisville, Henderson & St. Louis Railway admits that because of the lower rates applicable by way of the ferry described to Cannelton, and the service of the Southern Railway and its connections beyond, it can not expect to participate in the transportation of eggs from Hawesville at the present rate. It contends, however, that the rate from Hawesville is intrinsically reasonable and that the rate from Owensboro is not unreasonable, inasmuch as it

is held down by water competition. The rate from Hawesville is said to compare favorably with the rates to New York from other points in Kentucky on the Louisville, Henderson & St. Louis Railway for like distances. The short route from Hawesville to New York is 946 miles long. Illustrative through rates to New York based on Owensboro are: 98.2 cents per 100 pounds from Cloverport, 935 miles; 97.2 cents from Sterretts, 940 miles; 92.2 cents from Lewisport, 956 miles.

We find that the rate assailed from Hawesville to New York is not shown to be unjust or unreasonable.

The complaint will be dismissed.

No. 9116.¹

THOMAS CLINGMAN MORGAN

v.

FREEO VALLEY RAILROAD COMPANY ET AL.

Submitted December 9, 1916. Decided July 9, 1917.

Joint rates on lumber and staves in carloads from Princeton, Ark., to certain interstate destinations having been established by defendants since the hearing on a basis satisfactory to complainants, complaints dismissed.

Wm. F. McKnight for complainants.

Thomas J. Gaughan for Freeo Valley Railroad Company.

Edward A. Haid for St. Louis Southwestern Railway Company.

H. M. Gregory for Railroad Commission of Arkansas.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant in No. 9116 owns and operates a sawmill and planing mill at Princeton, Ark., under the trade name of Princeton Lumber Company. By complaint filed June 26, 1916, he alleges that the combination rates charged by defendants for the transportation of numerous carloads of yellow-pine lumber from Princeton to specified destinations in Missouri, Iowa, Illinois, Nebraska, Minnesota, Kansas, Ohio, Indiana, Michigan, and Canada during the period from April 1, 1914, to June 21, 1916, inclusive, were unreasonable as compared with joint through rates from Eagle Mills and other points in Arkansas

¹ The report also embraces No. 9116 (Sub-No. 1), *Louis Lee Hamlin, Agent for Arkadelphia Milling Company, v. Freeo Valley Railroad Company et al.*

to the same destinations, and that in violation of our order in *The Tap Line Case*, 31 I. C. C., 490, defendants have failed to establish joint through rates from and to the points in question. Violations of the long-and-short-haul rule of the fourth section are also alleged. Complainant in No. 9116 (Sub-No. 1) is the agent for the Arkadelphia Milling Company, of Arkadelphia, Ark. By complaint, filed July 6, 1916, he alleges that the rates charged for the transportation of 11 carloads of staves from Princeton to specified destinations in Illinois, Iowa, and Nebraska during the period from August 1, 1914, to November 30, 1914, inclusive, were unreasonable, and that defendants have failed to publish joint through rates in pursuance of our order in *The Tap Line Case*, *supra*. Reparation is asked and the establishment of reasonable rates for the future. The claims for reparation have been abandoned.

Princeton is situated on the Freeo Valley Railroad, north of Eagle Mills, at which point the Freeo Valley connects with the St. Louis Southwestern Railway. Prior to our decision in *The Tap Line Case*, 23 I. C. C., 277, 328, joint through rates were maintained from and to the points in question. Following that decision those rates were canceled. In January and February, 1917, joint through rates were again published from and to the points in question, and those rates, which are still in effect, are satisfactory to the complainants. It appears that the alleged violations of the fourth section did not exist.

Any division allowed by the defendant trunk lines to the Freeo Valley out of joint through rates on lumber from points on the latter line should conform to the principles announced in our second supplemental report in *The Tap Line Case*, *supra*.

The complaints will be dismissed, and an order will be entered accordingly.

46 I. C. C.

No. 9324.

SUPERIOR CHARCOAL IRON COMPANY

v.

MUNISING, MARQUETTE & SOUTHEASTERN RAILWAY
COMPANY ET AL.

Submitted May 11, 1917. Decided July 9, 1917.

Rate on pig iron in carloads from Marquette, Mich., to Kansas City, Mo., found to have been unreasonable. Reparation awarded.

Henry J. Bennett for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in buying and selling pig iron at Grand Rapids, Mich. By complaint, filed October 30, 1916, it alleges that the charges collected on six carloads of pig iron shipped from Marquette, Mich., to Kansas City, Mo., in June, 1914, were unreasonable. Reparation is asked. The claim was presented to the Commission informally May 24, 1915. Rates are stated in amounts per ton of 2,240 pounds.

The shipments weighed 486,080 pounds and moved over the Munising, Marquette & Southeastern Railway to Little Lake, Mich.; Chicago & North Western Railway to Chicago, Ill.; Chicago Great Western Railroad to destination. There was no joint rate in effect, and charges were collected in the sum of \$1,048.04, at a combination rate of \$4.83, composed of \$1.75 to Chicago, and \$3.08 beyond. On September 1, 1915, defendants established over the route of movement a joint rate of \$3.58, which is still in force. Complainant contends that the rate assailed was unreasonable to the extent that it exceeded the subsequently established rate. Prior to June 1, 1913, defendants maintained a joint commodity rate of \$3.08 on pig iron from Marquette to Kansas City, but on the latter date canceled the same, leaving in effect the combination rate charged.

In *Michigan Upper Peninsula Pig-Iron Rates*, 26 I. C. C., 284, decided April 7, 1913, we found a proposed increase from \$3.08 to \$4.16 in the rates on pig iron from Duluth and Ashland, Minn., and Chocolay, Manistique, Newberry, and other northern Michigan points to Kansas City unreasonable and prescribed a rate of \$3.58. Mar-

quette is in the same general territory as the points of origin in that case.

We find that the charges collected were unreasonable to the extent that they exceeded charges that would have accrued at the rate of \$3.58 per ton of 2,240 pounds; that complainant made the shipments as described and paid and bore the charges thereon at the rate herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rate herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined on this record and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. As the \$3.58 rate has been in effect since September 1, 1915, no order for the future is necessary.

46 I. C. C.

No. 9188.

WESTERN STONEWARE COMPANY

v.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY
ET AL.

Submitted January 22, 1917. Decided July 10, 1917.

Rate on stoneware in carloads from St. Louis, Mo., and points taking the same rate, including Monmouth and Macomb, Ill., to Billings and Harlowton, Mont., and points taking the same rate found justified. Complaint dismissed.

A. J. Ritschel for complainant.

L. R. Capron for defendants.

REPORT OF THE COMMISSION.

By THE COMMISSION:

Complainant is a corporation engaged in the manufacture of common stoneware, with its principal office at Monmouth, Ill., and factories at Monmouth and Macomb, Ill. By complaint, filed September 11, 1916, it alleges that defendants' rate of 90 cents per 100 pounds on stoneware, common coarse body, in boxes, barrels, crates, or in bulk, in carloads, from St. Louis, Mo., and points taking the same rate, including Monmouth and Macomb, to Billings, Mont., and points taking the same rate, is unreasonable as compared with the rate of 86 cents per 100 pounds maintained from and to the same points prior to July 1, 1916, and unduly prejudicial as compared with the rate of 80.7 cents per 100 pounds maintained on like traffic from Red Wing, Minn., to the same destinations. Complainant is interested in the rates from Monmouth and Macomb only, and the real ground of complaint is that these rates are too high as compared with the rates from Red Wing. Rates are stated in cents per 100 pounds.

Monmouth and Macomb are situated in western Illinois, Monmouth being served by the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, the Minneapolis & St. Louis Railroad, and the Rock Island Southern Railway, and Macomb by the Burlington. Red Wing is about 40 miles southeast of St. Paul, Minn., on the Chicago Great Western Railroad and the Chicago, Milwaukee & St. Paul Railway. The rate assailed applies over the following routes to Billings, which is representative of the destination points:

Burlington from Monmouth or Macomb to St. Paul and the Great Northern or the Northern Pacific beyond; Minneapolis & St. Louis from Monmouth to St. Paul and the Great Northern or Northern Pacific beyond. From March 15, 1910, and possibly prior thereto, until July 22, 1912, the rate on stoneware, in carloads, minimum 24,000 pounds, from and to these points was 90 cents. The rate from Red Wing to Billings was 84.9 cents until July 25, 1911, on which date it was increased to 88 cents. On July 22, 1912, the rate from Monmouth and Macomb was reduced to 86 cents and the rate from Red Wing to 80.9 cents. On July 1, 1915, the rate from Red Wing was further reduced to 80.7 cents. On June 30, 1916, the rate from Monmouth and Macomb was increased to 90 cents, but no change was made in the rate from Red Wing. On the last-named date there was also an increase in the rate from Chicago, Ill., and points taking Chicago rates, from 89 to 90 cents. Since September 15, 1916, a rate of 90 cents has also applied from Monmouth and Macomb to Billings over the Burlington all the way, but this rate is not in issue. The distance by way of the Burlington is considerably less than the distance over the routes via which the rate in issue applies.

As the rate represents an increase since January 1, 1910, the burden is on defendants to show that it is reasonable.

For defendants it is said that a thorough investigation failed to develop the basis upon which the previous rate of 86 cents was constructed, but that the correct basis from Monmouth and Macomb, and also from Chicago, to the destinations in question is 125 per cent of the St. Paul rate, subject to the Spokane, Wash., rate as maximum. The Spokane rate from Monmouth is 90 cents and from Macomb 95 cents, while 125 per cent of the St. Paul rate is 92.5 cents.

The short-line distance from Macomb, which is 39 miles south of Monmouth, to Billings, by way of Minnesota Transfer, Minn., is approximately 1,319 miles, and the earnings under the rate assailed are 1.36 cents per ton-mile, and, based upon the minimum of 24,000 pounds, 16.37 cents per car-mile. From Red Wing to Billings, approximately 932 miles, the ton-mile earnings are 1.73 cents; the car-mile earnings, 20.8 cents. The average loading of stoneware is not disclosed, but it was stated that the commodity is liable to breakage if loaded too heavily.

Defendants contend that, considering the difference in distance, the rate assailed is not unreasonable, as compared with the rate from Red Wing. They show that Red Wing pays the full combination of class B rates, based on St. Paul, Minn., while the 90-cent commodity rate from Monmouth to Macomb is 3 cents lower than the corresponding class B rate, and suggest that the difference of 12.3 cents between the class rates from Red Wing and from Monmouth

and Macomb to Billings might well be taken as a fair measure of the proper differential.

Complainant introduced no affirmative evidence to show that the rate assailed is unreasonable. On the question of undue prejudice, complainant merely asserted that it was in competition with a pottery at Red Wing and that it was unable to successfully compete at the destinations referred to under the present rates.

Upon the record we find that the rate assailed has been justified. An order dismissing the complaint will be entered.

46 I. C. C.

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No. 8959.

PORTLAND TRAFFIC & TRANSPORTATION ASSOCIATION
ET AL.

v.

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY
ET AL.

Submitted October 11, 1916. Decided July 9, 1917.

Rate on a carload of passenger sleighs, poles, shafts, and runners from Kalamazoo, Mich., to Spokane, Wash., not shown to have been or to be illegal or unreasonable. Complaint dismissed.

William C. McCulloch for complainants.

R. C. Fyfe for Chicago, Rock Island & Pacific Railway Company and its receiver; New York Central Railroad Company; and Northern Pacific Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainants are the Portland Traffic & Transportation Association, a voluntary association organized to promote the shipping interests of Portland, Oreg., and Mitchell, Lewis & Staver Company, a corporation dealing in agricultural implements and vehicles at Spokane, Wash. By complaint, filed June 15, 1916, they allege that the rate of \$1.672 per 100 pounds charged by defendants on a carload of sleighs, runners, poles, and shafts, shipped October 9, 1915, from Kalamazoo, Mich., to Spokane, was unreasonable. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated in amounts per 100 pounds.

46 I. C. C.

The shipment, aggregating 24,860 pounds, consisted of passenger sleighs or cutters, poles, and shafts, and runners intended to be substituted for wheels on freight vehicles. The runners weighed 7,545 pounds. It moved over defendants' lines by way of St. Paul, Minn., and charges were collected at a combination rate of \$1.672, composed of commodity rates of 34.2 cents to St. Paul and \$1.33 beyond.

At the time of movement the western classification carried the following provision under the heading "vehicles and parts thereof:"

Vehicles, light and heavy (mixed carloads of freight and passenger vehicles only, exclusive of self-propelling vehicles) and finished parts thereof, c. l., min. wt. 20,000 pounds for cars not exceeding 40 feet in length inside measurement; an addition of 2 per cent per foot to be made in minimum weight for each foot or fraction thereof in excess of 40 feet in length, exception to Rule 6-B, each car to contain not less than 25 per cent in weight of freight vehicles. A

The class A rate from Kalamazoo to Spokane over the route of movement was \$1.56. Defendants' tariffs provided for the application of through or combination class or commodity rates whichever made lower. Complainants contend that as more than 25 per cent of this shipment consisted of parts of freight vehicles, it was included within the description contained in the item quoted, and therefore that the class A rate was legally applicable. With this contention we can not agree. No evidence was offered to show that the rate charged was or is unreasonable.

We find that the rate assailed was legally applicable to this shipment and that it is not shown to have been or to be unreasonable. An order dismissing the complaint will be entered.

46 I. C. C.

No. 8901.

ALABAMA PACKING COMPANY ET AL.

v.

ALABAMA GREAT SOUTHERN RAILROAD COMPANY ET AL.

Submitted December 21, 1916. Decided July 19, 1917.

Charge of \$5 per carload assessed by the Birmingham Belt Railroad Company for switching complainants' traffic between Birmingham and North Birmingham, Ala., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

J. D. Patterson, jr., for complainants.

C. B. Northrop for Alabama Great Southern Railroad Company and Southern Railway Company.

William Burger for Louisville & Nashville Railroad Company.

Forney Johnston and *R. L. Nash* for Birmingham Belt Railroad Company.

REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

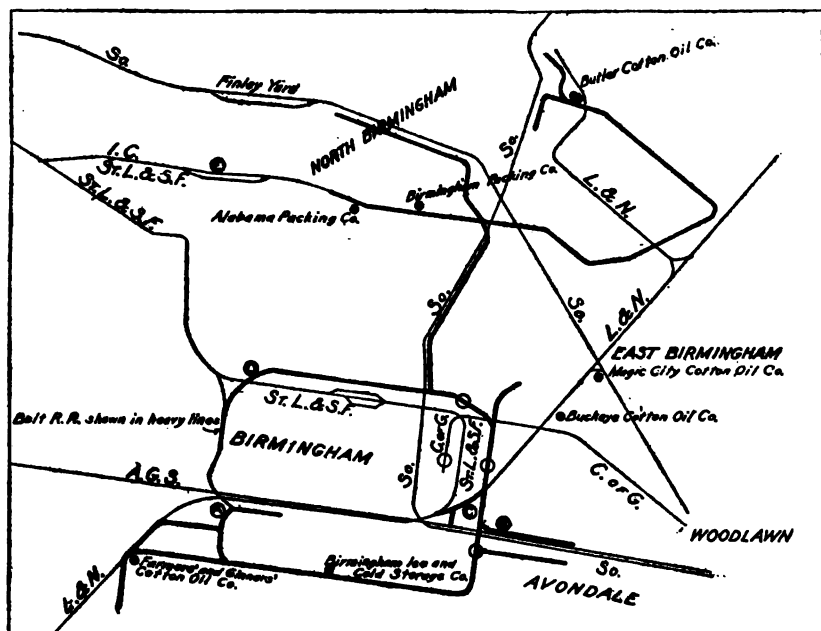
Complainants, the Birmingham Packing Company, the Alabama Packing Company, and the Butler Cotton Oil Company, are corporations whose plants are located at North Birmingham, a section of the city of Birmingham, Ala. By complaint filed May 25, 1916, these complainants allege that the switching charge of the defendant Birmingham Belt Railroad Company, of \$5 per car, between Birmingham proper and North Birmingham is unreasonable, unjustly discriminatory, and unduly prejudicial. North Birmingham previous to 1910 was a separate municipality, but in that year the corporate limits of Birmingham were extended to include numerous outlying districts and communities, among which are North Birmingham, East Birmingham, Avondale, and Woodlawn, the enlarged boundaries embracing about 54 square miles of territory. In this report we shall refer to Birmingham proper and these various suburban districts as if they were still separate municipalities.

Birmingham is served by 11 railroads, of which 4, the Louisville & Nashville, Southern, Alabama Great Southern, and the Birmingham Belt, hereinafter referred to as the belt, are defendants in this proceeding. The last named is a switching line, the capital stock of which is owned entirely by the St. Louis & San Francisco Railroad Company, hereinafter termed the Frisco. The belt is described as having been originally a passenger dummy line which constituted the

street railway system of Birmingham. Apparently it did some incidental switching of freight. Later, a portion of the line was devoted solely to freight service and this became the nucleus of the present belt line. The belt now operates about 31 miles of line. It carries no passengers and has no relationship, either in ownership or operation, with the street railway system of Birmingham. It was purchased by the Frisco in 1902 and has since had the dual character of an independent switching road and a terminal facility of the Frisco. The Illinois Central for many years past has shared the facility with the Frisco under a contract arrangement, each road bearing a proportion of operating expenses, taxes, and interest in lieu of stated charges for service. The Central of Georgia, also, has trackage rights over parts of the line. Other roads, as well as shippers, are required to pay tariff charges for switching. To afford the Frisco and Illinois Central a new entrance to Birmingham, a branch of the belt was constructed to North Birmingham about the year 1907. It is stated that when the freight service of the belt commenced, a switching charge of \$2 was already in effect in the industrial section of Birmingham and that in order to secure the location of industries on its tracks, it necessarily adopted the same charge. Upon the extension of the line to North Birmingham, a switching charge of \$5 per car was established between Birmingham and North Birmingham, which has since been in effect. The distance from the center of Birmingham to the center of North Birmingham in a direct line is approximately 2½ miles, but the rail distances are considerably greater, as will more fully appear. Although the belt extension intersects or adjoins the Southern and Louisville & Nashville at various points in North Birmingham, traffic for North Birmingham industries is still interchanged with the belt at various points in Birmingham, as before. The annexed map shows the relative positions of Birmingham and North Birmingham, the lines of the belt and the principal connecting lines to which reference will be necessary, and the location of complainants' and their principal competing industries.

The plants of the Birmingham Packing Company and the Alabama Packing Company are reached by the belt only; that of the remaining complainant, the Butler Cotton Oil Company, by the belt and the Louisville & Nashville. These parties allege that the belt switching charge of \$5 is unreasonable to the extent that it exceeds that of \$2 generally effective elsewhere within the corporate limits of Birmingham and in the neighboring cities of Bessemer and Ensley, Ala., and that it unduly discriminates against them and in favor of the industries in Birmingham and elsewhere which enjoy lower switching charges. In their petition they ask reparation and request either that the charge be reduced to \$2 or that the belt and connecting

lines be required to establish and maintain interchange facilities at North Birmingham. The latter alternative, as developed upon the record, was based upon the assumption that the proposed interchange at North Birmingham would enable the complainants to avail themselves of the switching charge of \$2 now effective between points in North Birmingham. Complainants were also of the opinion that such facilities would result in a substantial saving of time in delivering their shipments,—a matter of importance in view of the fact that much of the freight is live stock. Especially is this claim made with respect to deliveries of shipments arriving from the south over the Southern Railway, which are hauled to Finley yard in



North Birmingham where the trains are broken up, and are then returned about 5 miles for delivery to the belt in Birmingham. Defendants, however, denied that any substantial saving of time would be practicable. The Louisville & Nashville submitted evidence to the effect that the estimated cost of an interchange facility for that line at the most advantageous point in North Birmingham would be \$4,715.20 and that its maintenance would cost \$331.99 per annum. The corresponding items for the Southern, according to its witness, are estimated at \$3,900 and \$450, respectively. Additional costs of operation would also be entailed. Upon this showing, together with data of possible saving to shippers, complainants practically withdrew their demand for additional facilities. Defendants

claim that their present interchange facilities were located with a view to the accommodation of the traffic of the city as a whole; that their operation is economical for the carriers and generally convenient for the shippers; and that there is not a sufficient traffic demand to warrant the expense of providing, maintaining, and operating the additional facilities requested. Of 72 industries served by the belt, 55 are in Birmingham proper, 2 in Avondale, and 15 in North Birmingham. It is deemed unnecessary further to discuss this portion of the petition or to deal with the question of jurisdiction raised by defendants.

Inbound traffic of complainants arriving via the Frisco or Illinois Central is delivered without charge in addition to the freight rate to Birmingham, the belt, as already stated, being regarded as a part of those carriers' terminals. Freight arriving over the Southern, Alabama Great Southern, and Louisville & Nashville is transferred to the belt at points in Birmingham indicated on the map as A, B, and C, respectively. Traffic of the Frisco and the Illinois Central is interchanged with the belt at points D and E, and additional circles indicate points of interchange with still other trunk lines, of which special discussion is unnecessary. The distances in miles from points A, B, and C to the plants of the complainants, measured by the route of actual movement over the belt, are approximately as follows:

	A	B	C
Birmingham Packing Company.....	5.5	3.2	3
Alabama Packing Company.....	6	3.6	2.8
Butler Cotton Oil Company.....	7.5	5.3	5

In accordance with the usual practice of railways in the south, terminal switching charges of the belt on competitive traffic are absorbed by the carrier having the line haul. Complainants do not show to what extent they are subjected to the payment of belt switching charges, but figures furnished by defendants for the calendar year 1915 are as follows:

The Southern handled 138 carload shipments for the three complainants. Only 30 of these were interstate shipments, on 25 of which the Southern absorbed the belt switching charges.

The Alabama Great Southern handled 228 carload shipments for complainants, of which 85 were interstate. It absorbed the belt switching charges on all but two of the interstate shipments.

The Louisville & Nashville reaches the plant of the Butler Cotton Oil Company with its own rails and handles traffic for that complainant without extra terminal charge. For the complainant packing com-

panies, it handled 180 carload shipments, of which 44 were noncompetitive, on which the belt charge of \$5 per car was collected from shippers. The proportion of interstate shipments of this defendant is not shown.

The volume of traffic handled by defendants for other industries on the belt in North Birmingham is not stated, but it seems that the complainants are among the principal shippers, if not the largest. Of 210 carloads hauled by the Louisville & Nashville for North Birmingham industries during the year 1915, 180 were consigned to or from complainants' plants. A buyer of live stock for the packing companies recently located his yard on the belt near the plants of the packing companies, having been forced to move from Birmingham by a regulation prohibiting the driving of cattle through public streets. He receives numerous carload shipments of stock, mostly intrastate, and testified in support of complainants' petition. There are approximately 30 industries located at North Birmingham, about one-half of which are reached by the belt, the remainder being served by the Southern or the Louisville & Nashville. Those companies do not publish switching charges between Birmingham and North Birmingham, the carload rate for the movement on many commodities, including cotton seed and live stock, being 2½ cents per 100 pounds, minimum 40,000 pounds. On only one commodity, sewer pipe, is the minimum carload charge less than \$5.

In support of their claim that the switching charge of \$5 per car is unreasonable, complainants cite the charge of \$2 per car between Birmingham interchange points and industries in Avondale, East Birmingham, and Woodlawn. The belt does not reach East Birmingham or Woodlawn, but serves two industries in Avondale, distant about 2½ miles from the farthest point of interchange in Birmingham. The distances from the interchange points to other industries in these suburbs in some instances exceed 5 miles. The average distance from points of interchange to 55 industries in Birmingham reached by the belt is about three-quarters of a mile. The distance from the same points to complainants' plants is nearly 5 miles. Witnesses for the belt claimed that the charge of \$2 is too low, but is forced upon the company by competition. Other defendants take the same position, but seek to justify the charge on the ground that the arrangement with connecting lines is a reciprocal one, whereby the carriers exchange the use of their terminals. They say that the charge in itself is not designed to be compensatory. They pay the charge of \$5 to the belt on much of the North Birmingham traffic and do not regard it as unreasonable.

Of the 31 miles of line operated by the belt, 10 miles are in public streets and alleys. Ninety-seven steam railroad crossings and
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32 street railway crossings on that defendant's line increase the difficulty of operation and the expense of maintenance. But little switching can be done at night. Shipments of live stock, a large part of the total traffic destined to North Birmingham, must be handled expeditiously, and frequent special runs are made with only one or two cars. Similar expedition is unnecessary in the case of shipments for the Butler Cotton Oil Company, but the distance here is greater. The general manager of the belt testified that the road, viewed as an independent enterprise, is operated at a substantial loss. He submitted, in substance, the following statement of operations for the year 1916, showing a deficit of \$40,731 for the year. In this calculation all cars switched by the belt for the Frisco or Illinois Central were charged at \$2 each, it being assumed that if required to pay charges they would be delivered to the belt at the North Birmingham connection:

REVENUES.

Switching revenue.....	\$99,639.00
Demurrage.....	885.00
Rent of buildings and other property.....	1,073.00
Miscellaneous revenue.....	57.00
Total.....	\$101,654.00

EXPENSES.

Maintenance of way and structures.....	\$11,442.00
Maintenance of equipment.....	3,518.00
Transportation.....	67,969.00
General.....	131.00
Total.....	83,060.00
Net revenue.....	\$18,604.00

INCOME ADDITIONS.

Hire of equipment.....	\$6,406.00
Joint facility rents.....	3,920.00
Miscellaneous rents.....	786.00
Income from unfunded securities.....	298.00
Total.....	11,410.00

INCOME DEDUCTIONS.

Taxes.....	\$15,834.00
Interest on funded debt.....	40,000.00
Interest on unfunded debt.....	13,623.00
Joint facility rents.....	489.00
Miscellaneous income charges.....	799.00
Total.....	70,745.00
Excess of income deductions.....	59,335.00
Deficit for year.....	40,731.00

Reference was also made by complainants to the switching charges of the Belt Railway Company of Chattanooga, Tenn., which are \$2.50 per car when collected from shippers and \$3 per car when absorbed by the trunk lines, the maximum haul being about 7 miles. Its charges for local switching are from \$2 to \$6.50 per car. According to the testimony of its freight traffic manager, that company also is operating at a loss. Complainants further point out in brief and argument that the charge of \$5 here under attack exceeds the sum of the charges for internal switching between points in Birmingham and North Birmingham, respectively. While the switching zones of Birmingham and North Birmingham are contiguous, it is not shown that the local switching operations extend to the common boundary. The record indicates, on the other hand, that a residential district intervenes. Further, the reasonableness of neither local charge has been established or admitted. We have in various cases examined and approved terminal switching charges as high as, or higher than, that now in question, the circumstances apparently being substantially similar. *Switching Charges at Milwaukee, Wis.*, 32 I. C. C., 509; *Baltimore Switching Charges*, 32 I. C. C., 376; *Nashville Switching*, 40 I. C. C., 474. Two of those cases deal somewhat extensively with the cost of switching service in cities, and tend strongly to establish the reasonableness of the charge here attacked. It is our conclusion that the charge of \$2 is not a proper measure of a reasonable charge for the service of the belt between Birmingham and North Birmingham. If it be urged that the belt is merely the terminal of the Frisco and that the reciprocal charge should, therefore, be extended to North Birmingham, regardless of the measure of compensation for the particular service, we must still reject the argument, as we have no evidence that the Frisco receives either at Birmingham or elsewhere compensating advantages through the use of similarly extensive facilities of other lines. We hold that the charge under attack has not been shown unreasonable.

It remains to consider the charge of unlawful discrimination. So far as complainant packing companies are concerned, it is not shown that either the belt or its owner, the Frisco, serves a competing industry in this territory. The location of slaughterhouses in Birmingham is restricted by city ordinances to a small section surrounding these complainants' plants. In connection with their packing business they manufacture ice to some extent and furnish cold storage. A cold-storage warehouse is located on the belt tracks in Birmingham at an average distance of about 1½ miles from the various interchange points on the belt, the switching charge therefrom being \$2. The average distance to complainants' plants is about 4 miles and the charge \$5. In view of the disparity in distance, we

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are unable to find this difference in charges undue. It must also be considered that the competing plant is located in close proximity to lines other than the belt, on which a charge of \$2 is regularly assessed to neighboring industries. It is also stated that a packing plant at Chattanooga is charged \$2.50 by the Belt Railway of Chattanooga, a switching line controlled by the defendant Alabama Great Southern Railroad Company. That defendant, however, is not responsible for the switching charge of the belt at Birmingham. Reference is also made to lower switching charges at more distant points, but the allegations afford no basis for the finding of undue prejudice in the practices of defendants.

The Butler Cotton Oil Company competes with three concerns doing a similar business at Birmingham, all of which are located in the \$2 zone. Only one of these is reached by the belt tracks. The average distance from the interchange points to the plant of the latter is about 2½ miles; to complainants' plants somewhat over 6 miles. Again, we are unable to find that the difference in charges is undue. Two other cotton-oil plants are located, respectively, on the tracks of the Southern and the Louisville & Nashville in East Birmingham within the \$2 switching limits. They are substantially nearer the points of interchange than is complainants' plant and are not reached by the belt or its controlling company.

We find that the charge of undue prejudice has not been sustained.

A similar complaint, covering intrastate traffic, has already been considered by the Alabama Public Service Commission, which, on September 6, 1916, ordered the belt to "publish and maintain a maximum switching rate of \$3 per car when to or from connecting lines." We are unable, however, upon the record before us, to justify similar disposition of this complaint, which must be dismissed. It will be so ordered.

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No. 9365.
CAIRO BOARD OF TRADE
v.
CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS
RAILWAY COMPANY ET AL.

Submitted May 21, 1917. Decided July 5, 1917.

Upon complaint that the rates on grain and grain products from Cairo, Ill., to points in trunk line and New England territories are unjust and unreasonable and unduly prejudicial to Cairo and unjustly preferential of Chicago, Peoria, St. Louis, and other points from which reshipping rates are published, *Held:*

1. Such rates are not shown to be unjust and unreasonable on grain from Cairo proper.
2. The maintenance of reshipping rates from Chicago, Peoria, and East St. Louis, Ill., and from St. Louis, Hannibal, and Louisiana, Mo., but not from Cairo, Ill., is unduly prejudicial to Cairo and unjustly preferential of competing markets. The unlawful prejudice and disadvantage required to be removed by the publication of reshipping rates from Cairo to the destinations involved not more than 1 cent higher than the reshipping rates contemporaneously maintained from St. Louis to the same destinations.

J. P. Haynes and William R. Bach for complainant.

C. B. Stafford for Louisville Board of Trade.

W. O. Bartholomew for Bernet, Craft & Kauffman Milling Company.

A. P. Humburg and D. P. Connell for defendants.

C. C. Cameron for Illinois Central Railroad Company.

J. W. Clark for Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

REPORT OF THE COMMISSION.

MEYER, Commissioner:

By complaint filed December 11, 1916, the Cairo Board of Trade, a corporation, on behalf of named members, assails the rates on grain and grain products from Cairo, Ill., to points in trunk line and New England territories as unjust and unreasonable and as unduly prejudicial to Cairo and unjustly preferential of Chicago, Peoria, and other interior Illinois markets, East St. Louis, Ill., and St. Louis, Hannibal, and Louisiana, Mo. The gravamen of the complaint lies in the denial to Cairo of reshipping rates to trunk line and New England territories such as are applied from the other cities above named on grain and grain products originating west of the Mississippi River. The reshipping

rates from the Mississippi River crossings last named also apply on grain and grain products originating at points in Illinois from which no through rates are published. Cairo is in direct and active competition in the purchase and sale of grain, especially coarse grain, with Chicago, Peoria, and the markets on the Mississippi River.

Interventions were filed in opposition to the complaint by the Board of Trade of the city of Chicago and the Louisville, Ky., Board of Trade, and in support of the complaint by Bernet, Craft & Kauffman Milling Company of Mount Carmel, Ill. The Board of Trade of Chicago did not appear upon the hearing.

Rates to the destination points are differentially related to the rates to New York, and rates from St. Louis, except where specific rates are published to Chicago from Illinois points, fairly represent the rates from the points of origin alleged to enjoy a preference over Cairo. By specific rates in this instance are meant rates to Chicago from points in Illinois from which through rates to the east are published and which added to the reshipping rates from Chicago exactly equal the through rates from points of origin to final destination. Specific rates are not published from Cairo. The domestic rates on grain may properly be taken as representative of all the rates involved and these will be used and stated in cents per 100 pounds in this report.

The class rates from Cairo to New York are 120 per cent of the class rates from Chicago to New York. Grain in the official classification is rated sixth class. The commodity rates, local and reshipping, on grain from the points named below to New York are:

From—	Local.	Reshipping.
Chicago.....	21.8	18.8
Peoria.....	23.8	18.8
St. Louis.....	23.8	19.8
Cairo.....	24.8	(¹)

¹ Local rate only.

Complainant suggests that Cairo is entitled to a reshipping rate of 20.8 cents. If 120 per cent of the Chicago reshipping rate should be taken, Cairo's rate would be 20.16 cents. The reshipping rates from Peoria and St. Louis to New York bear very nearly the same percentage relationship to the reshipping rates from Chicago to New York that the class rates from those points bear to the class rates from Chicago. Except on traffic over the Illinois Central via Louisville the transportation from Cairo to the east does not involve a bridge toll such as is incurred in transportation from St. Louis to the east.

For the nine workable and now used routes which in each case are shortest from St. Louis and Cairo, defendants give the average distance from St. Louis to New York as 1,094.4 miles and from Cairo as

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1,175.74 miles, and the average earnings per ton-mile on the present reshipping rates from St. Louis as 3.62 mills and under the proposed rates from Cairo as 3.53 mills. The shortest workable routes from St. Louis and Cairo to New York are, respectively, 1,052.9 miles and 1,117.5 miles long.

From representative producing points of coarse grain in Missouri, Kansas, and Arkansas, most of which are south of a line drawn due west from Cairo, complainant shows the following:

Rates on coarse grain.

From points in—	Average rates per 100 pounds.		Average distance.		Average rates to New York.		Average proposed rates to New York via Cairo.
	To Cairo.	To St. Louis.	To Cairo.	To St. Louis.	Via Cairo.	Via St. Louis.	
	<i>Cents.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Miles.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
Missouri.....	10	10.6	149.3	206.5	34.8	30.4	30.8
Kansas.....	19.5	17.8	578	505	44.3	37.6	40.3
Arkansas.....	16.2	18.4	285.5	387	41	38.2	37

It will be observed that complainant's proposal will have the effect of cutting the average through rate to New York from the Arkansas points used in this compilation by 1.2 cents. There are also many points in southeastern Missouri from which the rate to Cairo is as much as 3 cents less than the rate to St. Louis and from which the through rates to New York will therefore be cut as much as 2 cents if complainant's proposal is adopted. However, the fairness of such a result becomes evident when it is considered that in many instances in which the through rates will be affected the distances to St. Louis are from 200 to 400 per cent of the distances to Cairo. St. Louis, on the other hand, can, under complainant's proposed rates, draw coarse grain from Allenville, Mo., a point 43 miles northwest of Cairo and 143 miles distant from St. Louis, and reship to New York at an advantage over Cairo of 0.5 cents. At stations intermediate from St. Louis to Allenville St. Louis will have a greater advantage.

To points east of the Indiana-Illinois state line from both Cairo and the alleged preferred markets no distinction in the rates is made on the different kinds of grain.

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From stations on the St. Louis, Iron Mountain & Southern, between Cairo and St. Louis, the average of the distances is 96 miles to St. Louis and 56 miles to Cairo, while the average rates are:

Rates to New York.

	Via St. Louis.		Via Cairo.	Proposed via Cairo.
Wheat:				
To St. Louis.....	8.4	To Cairo.....	6.2	6.2
Beyond.....	19.8	Beyond.....	24.8	20.8
Total.....	28.2	Total.....	31	27
Coarse grain:				
To St. Louis.....	7.6	To Cairo.....	5.7	5.7
Beyond.....	19.8	Beyond.....	24.8	20.8
Total.....	27.4	Total.....	30.5	26.5

Similarly from the stations on the Mobile & Ohio Railroad the average distances are 82.8 miles to St. Louis and 72.6 miles to Cairo, and the average rates are:

Rates to New York.

	Via St. Louis.		Via Cairo.	Proposed via Cairo.
Wheat:				
To St. Louis.....	8	To Cairo.....	7	7
Beyond.....	19.8	Beyond.....	24.8	20.8
Total.....	27.8	Total.....	31.8	27.8
Coarse grain:				
To St. Louis.....	7.8	To Cairo.....	6.5	6.5
Beyond.....	19.8	Beyond.....	24.8	20.8
Total.....	27.1	Total.....	31.3	27.3

Taking the farthest points on the Illinois Central in Illinois from which the rates apply and which include 47.4 per cent of the Illinois wheat territory, and dividing the distance therefrom by two to obtain an average, and using the specific rates to Chicago and the Illinois local rates to Cairo, which from this territory are practically the same as the interstate rates, the present rates to New York via Chicago from points averaging 314.20 miles from Chicago are 24.8 cents, the rates proposed by complainant via Cairo from points averaging 49.36 miles from Cairo would be 26.6 cents.

The yield of grain in Illinois for the five years 1912 to 1916, inclusive, was from the northern third of the state 12.8 per cent, from the central third 49.2 per cent, and from the southern third 37.9 per cent. Cairo, a city of 18,000 population, is situated near the junction of the Ohio and Mississippi rivers in the extreme southwestern part of the state, and the capacity of its elevators is 2,325,000 bushels.

Heretofore Cairo has marketed the grain brought thereto in the south and the southeast. For the last two or three years the large increase in the production of grain south and southeast of Cairo has materially lessened the shipments to that territory and now Cairo is compelled to seek an outlet to the east or see her market decline in importance. The rate adjustment complained of prevents Cairo from reaching this eastern territory and so this complaint was filed. In recent years southeastern Missouri has become a great corn-producing section. Complainant asserts that in 25 counties that are tributary to Cairo, and from all of which Cairo is intermediate to trunk line territory, over 1,000,000 bushels of grain are raised annually. These changed conditions make imperative a readjustment of rates from Cairo irrespective of what our action might have been before the changes occurred. The record also shows that in the southern tier of counties in Illinois there is grown $37\frac{1}{2}$ per cent of the wheat raised in Illinois. Considerable grain is also raised in western Kentucky, and much of this is naturally tributary to the Cairo market. Nevertheless Chicago is able to come to Cairo's door and haul grain at an 8-cent rate into Chicago and reship out at a rate of 16.8 cents to New York, at in and out charges as low as the rate from Cairo to New York.

The density of tonnage is practically the same from St. Louis as from Cairo to the points of destination. While the tonnage from Cairo east via the Cleveland, Cincinnati, Chicago & St. Louis Railway is but 7 per cent of such tonnage from St. Louis via the same road, the density of tonnage over the two divisions which serve these points is practically the same. These two divisions meet at Paris, Ill., from which point the transportation of grain from Cairo and St. Louis is over the same rails. The transportation conditions from Quincy, Peoria, and East St. Louis, on the one hand, and Cairo on the other are substantially similar. However, by reason of the fact that St. Louis, Hannibal, and Louisiana are on the west bank of the Mississippi River the transportation conditions therefrom are not so favorable to low cost as are those from Cairo. Defendants admit that, excluding competitive conditions, there are no reasons for different rates from Cairo than from St. Louis, Chicago, and the other markets from which reshipping rates are published.

The lines serving Cairo to the east now haul practically no grain and grain products from Cairo because the higher rates paid by Cairo compared with the reshipping rates paid by Chicago, Peoria, St. Louis, and the other river crossings force the grain movement through these competing markets.

Rates to New York from points intermediate between Cairo and Chicago, and between Cairo and the other points from which the reshipping rates are published, are local commodity rates higher than the reshipping rates and higher than the rates asked by Cairo.

The local commodity rates from Cairo are properly aligned with the local commodity rates from the competing markets of Chicago, St. Louis, etc., as well as from other points in the state of Illinois, and no substantial evidence was produced that such rates applied from Cairo proper are unreasonable in and of themselves.

The identity of grain shipped to and stored at a primary market, such as Cairo, St. Louis, and the other reshipping points, is of necessity lost, and there is substantial local consumption of grain at Cairo. So, were reshipping rates published from Cairo, the most valuable expense bills would naturally be used. This is also true at other markets from which reshipping rates now apply. Cairo now has reshipping rates on grain from the Missouri River points destined to the southeast and to Mississippi Valley territory. The Illinois Central is a party to reshipping rates on grain originating in Illinois and shipped via Peoria and Chicago. This road, however, was permitted to cancel its reshipping rates from St. Louis and East St. Louis. *Rates on Grain and Grain Products*, 30 I. C. C., 16. The most direct route to the port of Newport News, Va., for much of the grain which originates on this line is via Cairo to Louisville, Ky., and thence via the Chesapeake & Ohio Railway.

Neither the Mobile & Ohio Railroad nor the St. Louis, Iron Mountain & Southern, on whose lines in Illinois grain tributary to Cairo originates, is a party defendant. Any adjustment applicable to the points on the Illinois Central would practically compel a similar adjustment from points on these roads.

A reshipping or rebilling rate is a proportional rate under which after a commodity has been shipped to a distributing market and unloaded for the purpose of storage or treatment in transit the same commodity or an equivalent amount may be reshipped to final destination. There is a close analogy between reshipping rates and transit.

The reshipping rate is usually less than the local rate from the distributing or transit point to the final destination and must be regarded as part of the through rate or charge from the point of origin through the transit point to the ultimate destination. Defendants contend that reshipping rates may not, therefore, be considered independently of the inbound movement, and that the failure of complainant to join as defendants in this proceeding all carriers engaged in hauling grain to Cairo, particularly those west of the Mississippi River, precludes the consideration of unrestricted reshipping or proportional rates from Cairo to trunk line and New England

territories. Defendants refer to the following cases among others as supporting their position: *Sioux City Terminal Elevator Co. v. C., M. & St. P. Ry. Co.*, 23 I. C. C., 98, 27 I. C. C., 457; *Sioux City Commercial Club v. C., B. & Q. R. R. Co.*, 41 I. C. C., 518; and *Stevens Grocer Co. v. St. L., I. M. & S. Ry. Co.*, 42 I. C. C., 396.

In the *Sioux City Terminal Elevator Case* we found that Sioux City was not subjected to undue prejudice because of the refusal of carriers "to establish and maintain a basis of proportional rates on grain from Sioux City to Chicago and other markets" in lieu of transit under joint through rates from points of origin to final destination "while contemporaneously maintaining such a basis of proportional rates from Omaha and Kansas City to the same ultimate markets." In the *Sioux City Commercial Club Case* a similar situation was presented. The rates involved were from Sioux City to points in Kansas, Oklahoma, and Missouri on corn and corn products originating at specified points on the Great Northern Railway in Minnesota. Again undue preference was alleged because the combination of rates on Sioux City exceeded that on Omaha and Kansas City, and again we referred to the fact that Sioux City is accorded transit under through rates from the points of origin to the final destinations. At pages 519 and 520 the following is stated:

* * * Sioux City now enjoys from all the points of origin named in the complaint to the points of destination transit regulations under which grain may be stopped, cleaned, ground and milled, and moved out at a rate which added to the inbound rate is the same that would be applied were the shipment through Omaha or Kansas City. * * *

* * * It appears that flat or proportional rates can be more easily and generally availed of than transit, the latter being applicable generally only when the shipment moves over the rails of the inbound carrier. This fact was fully discussed by us in *Sioux City Terminal Elevator Co. v. C., M. & St. P. Ry. Co.*, 27 I. C. C., 457, 460, where was involved a situation somewhat similar to the one presented.

The situation presented in the instant case differs from that presented in the *Sioux City Cases*. Not only is Cairo in direct competition with points now accorded reshipping rates but it is a meeting point of eastern and western carriers, frequently emphasized as the prime characteristic of reshipping points, and therefore by virtue of its location as much entitled to reshipping rates as St. Louis or other competitive points named. This has already been recognized in rates to the south and the southeast. The importance of recognizing this fact in rates to the east is emphasized by the need already referred to for Cairo to find markets other than those it has hitherto supplied. Moreover, at present Cairo is not even granted transit under the through charges from points of origin to ultimate destinations. In fact, the through charges from southern Missouri, northern

Arkansas, and Kansas to trunk line and New England territories base on St. Louis and do not apply via Cairo, although the route via Cairo would in many instances be somewhat shorter than via St. Louis. From certain points Cairo is entitled to lower in and out rates than is St. Louis, but at present the combination on Cairo from practically all points of origin of grain is higher than on St. Louis. Thus it is apparent that Cairo is at a distinct disadvantage as compared with St. Louis and other competitive points, much greater than the disadvantage, declared by us not to have been undue, of Sioux City as compared with Omaha and Kansas City complained of in the cases referred to above.

In the *Sioux City Commercial Club Case* attention is called to the fact that complainants had not joined as defendants carriers engaged in hauling grain inbound to Sioux City, and in the *Stevens Grocer Co. Case* it is stated that—

* * * When the through rate or charge is made up of separately established rates or charges, applicable to the through business, the through rate or charge must be attacked as violative of the act, although the violation may be believed to be occasioned by a particular factor or factors thereof; in such case the complainant should be prepared at the hearing to prove the unlawfulness of the through rate itself and that this is due to a particular factor or factors. * * *

Proportional rates as such may not be attacked as unreasonable or otherwise in violation of the act unless through rates are also attacked whether there be a claim of reparation or not. * * *

These expressions are particularly emphasized by defendants as indicating that the instant complaint is defective due to the fact that complainant has not included as defendants the inbound carriers at Cairo.

The rule is stated in the *Stevens Grocer Co. Case* more broadly than it should be. In determining whether or not a complainant has been damaged by the exaction of unreasonable or unduly preferential reshipping rates the total through charges paid from point of origin must be considered. But this does not hold true of a determination of the reasonableness or justness of the reshipping rate itself. Reshipping rates are not merely divisions of through rates, but are separately established rates generally published by carriers other than those engaged in the inbound movement and without the concurrence of the latter; and the point of reshipment is a rate-breaking point. A change in the reshipping rates, even though it may affect the through charges, will have no effect upon the inbound rates. The inbound carriers have a right to secure reasonable compensation for their part of the haul by reasonable inbound rates. The reasonableness of such inbound rates is in no manner contingent upon reshipping rates. Furthermore, inbound rates used in connection with reshipping rates generally serve also as local rates. Hence they are subject to review independently of the outbound

rates. An excessive reshipping rate might produce a reasonable through charge in connection with an unduly low inbound rate and vice versa. It can not properly be argued that a proposal to increase unremunerative reshipping rates could be denied upon the ground that the through charge composed of an excessive inbound rate and the unremunerative reshipping rate is just and reasonable. The converse must also be true, namely, that shippers may not upon like grounds be denied relief from unreasonable or unduly prejudicial reshipping rates. This is also true as to proportional rates that are applicable to shipments going or from beyond and which are not limited as applying only on shipments from or to designated points or territory. Each of such rates must be judged upon its individual merits.

Defendants argue that the application of reshipping rates from Chicago, Peoria, St. Louis, and other points is the result of competitive influences, and that since these rates are made with relation to the Chicago rates they are influenced by the water competition felt at Chicago. The futility of this argument is evident when it is considered that at all of the points accorded reshipping rates the sum of the inbound rates plus the reshipping rates outbound is identical with the through rate from the grain-producing region west of the Mississippi River to the eastern destinations, and furthermore that it is the universal practice to accord transit under the through rates wherever necessary at points along the direct line of movement. At points so located defendants must either equalize in and out rates by means of reshipping rates or provide transit under through rates. *In re Transportation of Wool, Hides, and Pelts*, 23 I. C. C., 151; *Southern Illinois Millers' Asso. v. L. & N. R. R. Co.*, 23 I. C. C., 672; *Missouri River-Illinois Wheat and Flour Rates*, 27 I. C. C., 286; *Fabrication in Transit Charges*, 29 I. C. C., 70; *Henderson Commercial Club v. I. C. R. R. Co.*, 36 I. C. C., 20.

From a consideration of the record we find that the rates assailed are not unjust and unreasonable as local rates on grain from Cairo proper. We are also of the opinion, and find, that the matters and things complained of herein constitute the undue and unreasonable preference and advantage to Cairo's competitors and the undue and unreasonable prejudice and disadvantage against Cairo that is prohibited by section 3 of the act to regulate commerce.

We further find that such unlawful relationship will be removed by the publication of reshipping rates from Cairo to destinations in trunk line and New England territories not more than 1 cent higher than the reshipping rates contemporaneously maintained from St. Louis to the same destinations. In publishing such reshipping rates from Cairo the same regulations for policing the traffic should be prescribed as at the other markets.

No. 5585.

W. F. BOARDMAN COMPANY ET AL

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
ET AL.

Submitted December 13, 1916. Decided July 10, 1917.

Finding in report on rehearing, 39 I. C. C., 445, affirmed.

Charles Clifford for complainants.

James L. Coleman for Atchison, Topeka & Santa Fe Railway Company.

REPORT OF THE COMMISSION ON REARGUMENT.

BY THE COMMISSION:

Our original finding, unreported, was that during the year 1910 and up to September 14, 1911, the defendants should have applied to shipments of gas cooking stoves from points east of the Missouri River to San Francisco, Cal., a rate of \$1.30 per 100 pounds, minimum 24,000 pounds, or a rate of \$1.50 per 100 pounds, minimum 20,000 pounds, whichever made the lower charge under the following provisions of transcontinental freight bureau tariffs I. C. C. Nos. 904, 920, and 929:

Stoves (cast iron), cooking, heating (including sheet-iron stoves with cast-iron tops, or cast-iron tops and bottoms, or cast-iron tops, bottoms, and linings, or cast-iron ends and linings); laundry stoves, cast iron or steel ranges (with or without gas stove attachments); farmers' combination stoves with caldrons for same, and extra cast-iron parts of the above-mentioned articles, min. c. l. weight 24,000 pounds. Rate..... \$1.30 per 100
* * * * *

Stoves or grates, gas, oil, and gasoline, and ovens, cabinets, and extra iron or steel parts of above-mentioned articles; also gas, gasoline, or oil water heaters (not instantaneous), boxed or crated, min. c. l. weight 20,000 pounds. Rate..... \$1.50 per 100

NOTE.—The above rate will apply on combination steel ranges and gas cooking stoves.

Defendants thereupon filed a petition for rehearing, which was granted. In our report on rehearing, 39 I. C. C., 445, we found that in view of the specific rate of \$1.50 named in the last tariff item above quoted the rate of \$1.30 was not applicable to gas cooking stoves. We further found that the charges based on the rate of \$1.50 were not shown to have resulted in damage to complainants.

Upon petition of complainants, the case was reopened for oral argument, which has been had. The issue is solely one of tariff interpretation.

On September 14, 1911, the wording of the first item above quoted was amended by inserting as a caption thereto the words "stoves, coal or wood burning only, as follows." Complainants contend that under the item first quoted a rate of \$1.30 was applicable to gas cooking stoves, and argue that the amendment of September 14, 1911, was an admission by the carriers that the rate should have been so applied prior thereto. Defendant asserts that this amendment was made for the purpose of making the item clearer and not because they considered that it covered gas cooking stoves. It contends that the \$1.50 rate was the legal rate because it applied specifically to gas cooking stoves.

Complainants contend that both rates were applicable to gas cooking stoves and that under the repeated rulings of the Commission, where two rates are published in the same tariff, on the same commodity, between the same points, the lower governs, and that therefore the rate of \$1.30 was legally applicable. This would be true if it could be held that the description shown in the first item, which is general in character, applies on gas cooking stoves, which are specifically covered in the second item. Complainants further contend that the gas stove attachment is a complete gas stove which might, if the purchaser desired, be set up separately. They assert that the tariff did not, and does not now, limit the gas combinations or gas attachments named in the stove item taking the \$1.30 rate, and that according to rule 15 of the tariffs referred to two or more articles in one paragraph or bracketed may be shipped in straight or mixed carloads at the rate named. It appears to be complainants' contention that as the gas stove attachments might be used independently of the ranges they should be considered gas stoves under the first quoted item, and that under rule 15 they could be shipped as a carload at the rate of \$1.30. The item in question can not be so construed. It specifically provides for "* * * laundry stoves, cast-iron or steel ranges (with or without gas stove attachments) * * *." It seems clear that a straight carload of gas stove attachments could not be shipped at the rate of \$1.30 provided for in that item.

In *Curry & Whyte Co. v. D. & I. R. R. Co.*, 30 I. C. C., 1, 12, we said:

They (complainants) contend that some of the Minnesota defendants have charged in excess of the lawful rates for pulpwood logs, because the tariffs named rates on logs and placed no limitation upon the kind of logs included thereunder. As we have seen, however, there were commodity rates on pulpwood. These appear to have been applied and the contention in this respect is not sustained.

46 I. C. C.

Upon careful consideration of the whole record we adhere to the finding in our report on rehearing, *supra*, to the effect that the rate of \$1.50 per 100 pounds, specifically applicable on gas cooking stoves, was the legal rate to apply on the stoves in question.

As shown in our report on rehearing, *supra*, after the first hearing defendants established a rate of \$1.30 per 100 pounds, minimum 24,000 pounds, on coal or wood burning and gas cooking stoves and on combined coal or wood and gas burning stoves, which rate is still in effect.

MEYER, *Commissioner*, dissents.



No. 7995.¹

NORTHWEST GAS EQUIPMENT COMPANY

v.

OREGON-WASHINGTON RAILROAD & NAVIGATION
COMPANY ET AL.



Submitted October 4, 1915. Decided July 10, 1917.

Charges collected for the transportation of gas cooking stoves and parts thereof in carloads from Greenville, N. J., to Portland, Oreg., not shown to have been unreasonable. Complaint dismissed.

John A. Laing for complainant.

A. W. Hawkins, A. C. Spencer, and H. A. Scandrett for Union Pacific system.

Oscar Furuset and C. A. Hart for Spokane, Portland & Seattle Railway Company, Northern Pacific Railway Company, and Great Northern Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant, a corporation, is a wholesale dealer in gas stoves and ranges at Portland, Oreg. By complaints, filed May 10 and May 18, 1915, it alleges that the rate of \$1.50 per 100 pounds charged by defendants for the transportation of 23 carloads of gas cooking stoves and parts thereof, from Greenville, N. J., to Portland, during the period from March 26, 1913, to August 20, 1914, was unreasonable and unjustly discriminatory to the extent that it exceeded a rate of \$1.30 per 100 pounds contemporaneously applicable on wood and

¹ The report also embraces No. 7995 (Sub-No. 1), *Same v. Spokane, Portland & Seattle Railway Company et al.*

coal burning stoves from and to the same points. Reparation is asked. Several of the shipments are barred by the statute of limitation, but our conclusion herein renders it unnecessary to set them forth specifically.

On June 10, 1915, defendants reduced the rate on gas stoves and gas-stove parts to \$1.30 per 100 pounds, and this rate is still in effect. The same rate applies on wood and coal burning stoves. The only question, therefore, remaining to be determined is that of reparation.

In *Boardman Co. v. A., T. & S. F. Ry. Co.*, Docket No. 5585, unreported, relied upon by complainant, we found that a rate of \$1.50 per 100 pounds, charged on gas cooking stoves from various points east of Missouri River to San Francisco, Cal., was misapplied; that a rate of \$1.30 per 100 pounds was legally applicable under defendants' tariffs; and that the rate on gas cooking stoves from and to the points there in question should not exceed the rate contemporaneously applicable on wood and coal burning stoves, namely, \$1.30 per 100 pounds. Reparation was awarded. Subsequently, upon rehearing, we reversed our former finding with respect to the legality of the \$1.50 rate charged and held that such rate legally applied. This holding has been reaffirmed upon second reargument, 46 I. C. C., 352. But our previous finding that the rate on gas cooking stoves should not exceed the rate on wood and coal burning stoves was not modified. In the meantime the rate on gas stoves was reduced to the basis of the rate on wood and coal burning stoves. The charges collected were not shown to have resulted in damage to complainants therein and reparation was denied. 39 I. C. C., 445.

In the present case complainant offered no substantial evidence to show that the rate charged was intrinsically unreasonable or that it was damaged in any specific sum by reason of the alleged discrimination. The complaint must be dismissed, and an order will be entered accordingly.

46 I. C. C.

No. 8918.
SWIFT & COMPANY
v.
NEW YORK CENTRAL RAILROAD COMPANY.

Submitted November 9, 1916. Decided July 9, 1917.

Rates on various carloads of fresh meat, imported from South America, and on various carloads of the same commodity for export, transported between ship side and stations in New York, N. Y., found unreasonable to the extent that they exceeded the rates subsequently established. Reparation awarded.

R. D. Rynder for complainant.

John M. Sternhagen for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the packing-house business, with its principal office at Chicago, Ill. By complaint, filed June 2, 1916, it alleges that unreasonable and illegal rates were charged by defendant on 59 carloads of fresh meat imported from South America, shipped in January, 1915, from ship side, Brooklyn, N. Y., piers, to private sidings near defendant's Thirty-third street station, New York, N. Y., and on 12 carloads of fresh meat shipped in December, 1914, from the Thirty-third street station to ship side, Brooklyn piers, for export. Reparation is asked. Claim for reparation on six of the shipments for export was withdrawn subsequent to the hearing. Rates are stated in cents per 100 pounds.

The import shipments, which were loaded into 59 Swift refrigerator line cars, were consigned to Swift & Company, Thirty-third street station, New York City, and routed "N. Y. C." with the notation "Do not re-ice." They were moved by the New York Central Railroad on car floats from steamships berthed at the New York Dock Company's piers, Brooklyn, around the south end of Manhattan Island and up the Hudson River past the Thirty-third street station to the West Shore Railroad terminals at Weehawken, N. J., where the cars were switched to other car floats; towed for a mile down the Hudson River to the Thirty-third street terminal of the New York Central and there switched to private sidings of complainant's cold storage warehouses located on Thirtieth and Fourteenth streets. Charges were assessed at the rate of 6 cents, minimum 20,000 pounds,

for the movement from Brooklyn piers to Weehawken, and of 6 cents, minimum 20,000 pounds, from Weehawken to Thirty-third street, including delivery on the private sidings. At the time of movement the New York Central had no published rates on any commodity covering a direct movement from Brooklyn piers to Thirty-third street station which is served by no other carrier, as it did not desire to handle any traffic that way. The six cars for export were billed from the Thirty-third street station and specifically routed by way of Sixtieth street for export. The One hundred and thirtieth street station is about 5 miles north of Sixtieth street and is accessible over defendant's rails from Thirty-third street directly through the Sixtieth street station. The six cars moved by rail to One hundred and thirtieth street, and back over the same line to the Sixtieth street station; thence by car float direct to ship side at Brooklyn piers. At the time of movement there was no published rate over the direct route from Thirty-third street by way of Sixtieth street. Charges were assessed at the local third-class rates of 7 cents from Thirty-third street to One hundred and thirtieth street and 9 cents from One hundred and thirtieth street to ship side by way of Sixtieth street and car floats to Brooklyn piers, the lowest combination in effect. Effective March 5, 1915, at complainant's request, a rate of 6 cents was published from Thirty-third street direct for a minimum of six cars, or by way of Sixtieth street float bridges, and is still in effect. Reparation is asked on the basis of the subsequently established rates over the shorter and more direct routes.

Complainant contends in connection with the import shipments that the only service required by the bills of lading was the direct service to Thirty-third street; that the movement to and from Weehawken was neither requested nor desired; and that the shipper should not be required to pay for that movement. Rate comparisons are offered to show that the present rate of 6 cents is a reasonable one for direct service to Thirty-third street, but complainant admits that the rate of 12 cents, composed of 6 cents to Weehawken plus 6 cents to Thirty-third street is reasonable for the service actually performed. The complainant's principal contention is that the defendant violated section 6 of the act in that it had no published rate in effect for a direct movement to Thirty-third street.

Substantially the same contentions are advanced in connection with the export shipments. Complainant argues that it desired to have these shipments transported from Thirty-third street to ship side, Brooklyn, and that it did not desire or request their movement to One hundred and thirtieth street and back over the same route to Sixtieth street.

Defendant contends that its duty was fulfilled by transporting the shipments over the routes having the lowest published rates; that the rates charged for the services performed, and which are still in effect, are admittedly reasonable; that the fact that no rates for the direct movements were published does not constitute a violation of the act, and that it is liable only for failure to publish rates after reasonable request therefor. No request for rates by the direct routes was made prior to the movement of the shipments, but, as we have seen, defendant waived its disinclination to handle shipments direct to or from Thirty-third street and established rates for that service upon complainant's request.

Upon consideration of all the facts of record we are of opinion, and find, that the charges collected were unreasonable to the extent that they exceeded the charges that would have accrued on basis of the rates subsequently established for the direct movement; that complainant made the shipments as described and paid and bore charges thereon at the rates herein found unreasonable; that it was damaged thereby; and that it is entitled to reparation, with interest. The exact amount of reparation can not be determined on this record. Complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendant for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. No order for the future is necessary.

46 I. C. C.

No. 8718.
PEIRSON-LATHROP GRAIN COMPANY
v.
**CHICAGO, BURLINGTON & QUINCY RAILROAD
COMPANY.**

Submitted July 14, 1916. Decided July 7, 1917.

Charges collected on wheat in carloads shipped from Kansas City, Mo., having originated beyond, to Chicago, Ill., stored in transit at Leavenworth, Kans., found unreasonable to the extent that they exceeded the rate contemporaneously applied on wheat from Kansas City, when originating beyond, milled in transit at Leavenworth, and the product transported to Chicago. Reparation awarded.

R. D. Sangster for complainant.

Kenneth F. Burgess for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the grain business at Kansas City, Mo. By complaint, filed March 11, 1916, it alleges that the rate of 15 cents per 100 pounds charged by defendant on five carloads of wheat shipped in November, 1914, from Kansas City to Chicago, Ill., stored in transit at Leavenworth, Kans., was unreasonable and unjustly discriminatory to the extent that it exceeded a rate of 12 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

In September and October, 1914, complainant shipped five carloads of wheat from Kansas City by way of defendant's line to Leavenworth, where it was stored until November, 1914, when 299,170 pounds of the original shipments, all of which originated beyond Kansas City, were forwarded over the same line to Chicago. Charges were collected on the 299,170 pounds in the sum of \$448.74, based on a rate of 3 cents to Leavenworth and a rate of 12 cents beyond. The through rate contemporaneously in effect over the route of movement on wheat originating beyond Kansas City was and is 12 cents. But this rate was inapplicable to the shipments involved as defendant's tariff did not provide for the application of the through rate on wheat stored in transit at Leavenworth, although that rate was and is applicable on grain milled in transit at that point. Effective August 25, 1915, subsequently to the movement of these shipments,

defendant amended its tariff to provide for such transit service. It admits that the rates charged were unreasonable to the extent that they exceeded the through rate, and expresses willingness to make reparation.

At the time of movement, and at the present time, the Chicago Great Western, Chicago, Rock Island & Pacific, and Atchison, Topeka & Santa Fe railways applied and apply their through rates from and to the points involved on grain stored in transit at Leavenworth. Complainant urges that the shipments of products from the milling point weigh less than the inbound grain and that their liability to damage in transit is greater.

Complainant does not attack the reasonableness of either component of the rate assailed, but insists that it was unreasonable for defendant not to have provided for the through rate from Kansas City to Chicago on wheat stored in transit at Leavenworth.

We find that it was unreasonable to apply on wheat from Kansas City, when originating beyond, stored in transit at Leavenworth, and transported to Chicago, any rate higher than the rate contemporaneously applied on wheat from Kansas City, when originating beyond, milled in transit at Leavenworth, and transported to Chicago. We further find that complainant made the shipments as described and paid and bore the charges thereon at the rate herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rate herein found reasonable; and that it is entitled to reparation in the sum of \$89.75, with interest. An order will be entered accordingly, but as the tariffs now provide for the application of the through rate on shipments of wheat stored at Leavenworth, no order for the future is necessary.

46 I. C. C.

No. 9346.
INDEPENDENT COOPERAGE COMPANY, INCORPORATED,
v.
CENTRAL OF GEORGIA RAILWAY COMPANY ET AL.

Submitted March 29, 1917. Decided July 11, 1917.

Following the principle applied in *Central Commercial Co. v. L. & N. R. R. Co.*, 27 I. C. C., 114; 33 I. C. C., 164, and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 523; *Held*, That defendants should have permitted the reconsignment of carload shipments of hoops in transit from Troy, Ala., to Fruitland, Md., at Macon, Ga., on basis of the through rate from Troy to Fruitland, plus a maximum charge of \$5 per car for the extra services incident to the reconsignment. Reparation awarded.

G. F. Bassett and *H. E. Fairweather* for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant was a corporation engaged in buying and selling cooperage stock at Fort Wayne, Ind. By complaint, filed November 24, 1916, it alleged that the charges collected by defendants on a carload of gum hoops shipped February 10, 1915, from Troy, Ala., to Macon, Ga., and reconsigned at Macon to Fruitland, Md., were unreasonable to the extent that they exceeded the charges that would have accrued on the basis of the joint through rate of 27 cents per 100 pounds contemporaneously in effect over the route of movement from Troy to Fruitland, plus a reasonable reconsigning charge. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment, weighing 47,100 pounds, moved over the Central of Georgia Railway from Troy through Macon to Athens, Ga.; Seaboard Air Line Railway to Norfolk, Va., and New York, Philadelphia & Norfolk Railroad to destination. The change of destination was effected at Macon upon request for reconsignment at the through rate of 27 cents, which request was made February 12, 1915, and apparently received by the Central of Georgia after the car had reached Macon.

Charges were collected in the sum of \$163.14, based on a combination rate of 34 cents, composed of a rate of 9 cents to Macon and a rate of 25 cents beyond, plus demurrage charges of \$3 which accrued at Macon. A joint through rate of 27 cents applied over the route of movement from Troy to Fruitland.

No out of line haul was involved. At the time of movement the tariffs of the Central of Georgia governing reconsignment at Macon provided that carload shipments would be reconsigned at Macon at the through rate from point of origin to final destination under certain conditions not present in this case. Its tariffs now provide for the reconsignment of shipments under the conditions which prevailed as to the shipment in question, at the joint through rate from point of origin to final destination, plus a charge of \$5 for the extra services incident to the reconsignment.

Upon the record, and following *Central Commercial Co. v. L. & N. R. R. Co.*, 27 I. C. C., 114; 33 I. C. C., 184; and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 523, we find that the defendants should have provided for the reconsignment of the shipment on the basis of the joint through rate of 27 cents per 100 pounds from Troy to Fruitland, plus a reasonable charge for the extra service performed at Macon incident to the reconsignment; also that \$5 would have been a reasonable maximum charge for the extra service performed. We further find that complainant made the shipment as described and paid and bore the charges thereon; that such charges were unreasonable and that complainant was damaged to the extent of the difference between the charges paid and the charges that would have accrued on the basis of the rate and extra charge herein found reasonable, plus the demurrage charges of \$3 assessed at Macon; and that it is entitled to reparation in the sum of \$27.97, with interest.

In view of the fact that the Central of Georgia now permits reconsignment at the through rate plus a charge of \$5 for the services incident to the reconsignment, no order for the future is necessary.

An order awarding reparation will be entered.

46 I. C. C.

No. 9011.
E. I. DU PONT DE NEMOURS POWDER COMPANY
v.
PENNSYLVANIA RAILROAD COMPANY ET AL.

Submitted January 16, 1917. Decided July 9, 1917.

Charges on crude sulphur in bulk, in carloads, from New York, N. Y., to Hopewell, Va., not shown to have been unreasonable. Complaint dismissed.

J. P. Laffey and V. S. Thomas for complainant.

Henry Wolf Bicklé and Frederick L. Ballard for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of explosives at Hopewell, Va., with its principal office at Wilmington, Del. By complaint, filed July 1, 1916, it alleges that the charges collected by defendants on 20 carloads of crude sulphur, in bulk, shipped from a point within the lighterage limits of New York, N. Y., to Hopewell, during the period from October 7, 1915, to October 14, 1915, inclusive, were unreasonable. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated in cents per 100 pounds.

Hopewell is on the City Point branch of the Norfolk & Western Railway about 9 miles north of Petersburg, Va. The shipments moved over the Pennsylvania, the Philadelphia, Baltimore & Washington, and the New York, Philadelphia & Norfolk railroads to Norfolk, Va.; Norfolk & Western Railway to Hopewell, 435 miles. Charges were collected in the sum of \$1,839.98 at the applicable joint sixth-class rate of 14.6 cents, governed by the southern classification. One car apparently weighed 64,000 pounds and charges were assessed on 60,100 pounds. On this basis there is an outstanding undercharge of \$5.69. Complainant contends that the rate on sulphur in bulk from New York to Hopewell should not have exceeded 10.5 cents, the rate contemporaneously applicable on crude sulphur in packages, and subsequently established on sulphur in bulk.

For defendants it was testified that the 10.5-cent commodity rate applicable to sulphur in packages was established to meet the water-and-rail rate of the Old Dominion Steamship Company and its rail connection from New York to Hopewell; that the same influence

was not present in connection with the rate on this commodity in bulk; and that the rate charged was low for the service rendered, considering the fact that it included the expense of unloading from the ship, lighterage, and reloading in cars, in New York harbor.

On April 1, 1916, sulphur in bulk or in packages, in carloads, was added to the list of articles named in the southern classification as taking fertilizer rates. Prior to August 1, 1916, defendants' rate on fertilizer in packages from New York to Hopewell was 10½ cents, and on that date the rate was increased to 11 cents. It appears that since the outbreak of the European war the importation of various potash salts formerly used in the manufacture of commercial fertilizers has ceased, and the manufacturers of fertilizer are now using sulphur or sulphuric acid in the place of potash salts, and for that reason sulphur in packages and in bulk was added to the list of articles in the southern classification taking the fertilizer rates.

Sulphur in bulk or in packages is, and for many years has been, rated sixth class, in carloads, in the official and the southern classifications, and generally moves in bulk. It is valued at about \$25 per ton. The rate assailed yielded 6.7 mills per ton-mile, and, based on 63,210 pounds, the average weight of the shipments, averaged \$92.29 per car and 21.21 cents per car-mile.

Complainant's evidence consisted of showing the lower rate between the same points on sulphur in packages, together with the fact that the rate on sulphur in bulk was subsequently reduced. It admits that the all-rail rate on sulphur in packages between New York and Hopewell was made to meet the competition of the water-and-rail carriers. The present 11-cent rate is satisfactory to complainant.

A water compelled rate can not be taken as a measure of a reasonable rate, *South Atlantic Waste Co. v. S. Ry. Co.*, 22 I. C. C., 293, nor can the voluntary reduction of a rate without other evidence be considered a sufficient basis upon which to find the higher rate unreasonable.

We find that the charges collected are not shown to have been unreasonable, and an order dismissing the complaint will be entered.

46 I. C. C.

No. 8911.
SCHUH-MASON LUMBER COMPANY
v.
MOBILE & OHIO RAILROAD COMPANY ET AL.

Submitted January 12, 1917. Decided July 9, 1917.

Reparation awarded on account of damages due to the misrouting of, and the unlawful demurrage charges collected on, a carload of lumber transported from N. A. 604 Mile Post, Ga., to St. Louis, Mo.

Ray Williams for complainant.

W. H. Grumley for Mobile & Ohio Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the lumber business, with its principal office at Cairo, Ill. By complaint, filed May 29, 1916, it alleges that demurrage and switching charges which accrued between May 28, 1914, and July 23, 1914, on a carload of lumber shipped May 16, 1914, from N. A. 604 Mile Post, on the Atlantic Coast Line Railroad in Georgia, to St. Louis, Mo., were unreasonable and unlawful. Reparation is asked. The claim was presented to the Commission informally October 19, 1915.

The bill of lading covering this shipment showed the Schuh-Mason Lumber Company as consignor and consignee; destination as St. Louis, Mo., route “% Wabash R. R. North Market street”; and car number and initials A. C. L. 35391, shown at the hearing to be correct. The Atlantic Coast Line turned this car over to the Mobile & Ohio Railroad, but failed to note the routing instructions on the waybill, and inserted 25391 as the car number. The shipment reached East St. Louis, Ill., on May 27, 1914, over the line of the Mobile & Ohio, and notice of arrival was mailed to the consignee as shown on the waybill. As the consignee had no office in St. Louis, it did not receive the notice. The car was held by the Mobile & Ohio at East St. Louis during the free time; and, no disposition being furnished, it was delivered to the Terminal Railroad Association, herein-after called the terminal railroad, for placing on the public tracks in the Branch street yards, St. Louis, in accordance with tariff provisions. Notice of arrival was also mailed to consignee by this line, but it was not received for reasons previously shown.

Both the terminal railroad and the Mobile & Ohio made repeated efforts to locate the Schuh-Mason Lumber Company and secure disposition for this car, but tracers which were sent out, with the exception of four sent prior to June 9, 1914, showed the wrong car number. The showing of the correct car number in the earlier tracers and the erroneous number in the others is not satisfactorily explained.

The complainant, assuming that the shipment would reach East St. Louis over the Louisville & Nashville Railroad, instructed that line on May 23, by wire and letter, to deliver it to the Krug Lumber Company, St. Louis, Mo. A carbon copy of the letter was sent to the agent of the Wabash at St. Louis. Complainant stated that the Krug Lumber Company having allowed sufficient time for the car to arrive, made repeated inquiries of the carriers at St. Louis and East St. Louis, including the terminal railroad, but none of them had any record of A. C. L. 35391. The car was held at the Branch street yards until July 22, 1914, when the terminal railroad discovered the error in the car number. On July 23, 1914, the Krug Lumber Company ordered the car delivered to its plant on the Wabash, and, as it was on the terminal railroad's credit list, delivery was promptly effected.

A demurrage charge of \$46 and a charge of \$3.21 for switching to and from Branch street yards were assessed. Complainant does not attack the measure of the demurrage and switching charges, but contends that had the routing instructions and car number contained in the bill of lading been transmitted properly by the Atlantic Coast Line to the Mobile & Ohio the latter would have obtained from the Wabash the disposition orders filed with that carrier by complainant; that none of the charges assailed would have accrued; and therefore, that such charges were unlawfully collected.

Defendants rely upon the following tariff provision of the terminal railroad:

As connecting lines will not protect advance charges billed on cars for delivery from their tracks within the switching limits of St. Louis or East St. Louis, these companies reserve the right to hold such cars, subject to demurrage * * * until all charges, including demurrage which may accrue while being so held, are paid.

They contend that even though the routing in the bill of lading had been shown the car would have been held by the terminal railroad until the line-haul charges had been paid or guaranteed, for the reasons that the Schuh-Mason Lumber Company, the consignee, was not on the credit list of that road and although the Wabash was in possession of instructions to deliver the shipment to a company which was on the credit list, under the tariff there was no duty resting upon the terminal railroad or the Mobile & Ohio to notify the Wabash of the arrival of the car or to seek disposition orders from it.

A witness for the Mobile & Ohio testified that it is the custom of that road when a car arrives at East St. Louis with billing showing delivery desired in St. Louis, to communicate with the delivering line in an endeavor to secure disposition for the car, although this is not required by the tariffs; and that in this case had the Mobile & Ohio known that the shipment was for the Krug Lumber Company at North Market street, it would have been promptly delivered, and that switching charges would have been absorbed by the line-haul carriers.

In *Iglehart v. Pennsylvania Co.*, Docket No. 5266, unreported, involving a rule similar to that above quoted, demurrage charges accrued on certain carload shipments arriving at Chicago which were held by the line carrier awaiting prepayment of switching charges. Notice of arrival of cars was mailed to the consignee shown on the billing but did not reach him. The delivering line was not notified of the arrival of the shipments, and we said:

It is evident from the facts of record that if the agent of the Pennsylvania Company at Indiana Harbor had promptly notified the agent of the switching carrier at Franklin Park of the arrival of the shipment at Indiana Harbor, and of the unpaid charges thereon, there would have been no detention of the cars at that point. * * * The tariff rule referred to should have contained a provision requiring such notice to be given in all cases where carload freight is held at the point of connection with the switching line for the payment of charges assessed thereon; and we hold that the rule was unreasonable in not containing such requirement.

What was there said applies with equal force in this case, and defendant's rule should be amended accordingly. However, even had defendants' tariffs contained such a provision during the period here in question the situation with respect to this shipment would have remained unchanged, owing to the failure of the Atlantic Coast Line to transmit to its connection the routing instructions and car number contained in the bill of lading.

We find that it was the duty of the Atlantic Coast Line Railroad to transmit the routing instructions and correct car number to its connection, and that the demurrage and switching charges here involved were assessed as a result of its failure to do so.

The demurrage rules of the terminal railroad, in effect during the period of detention, provided in part, that—

No demurrage charges shall be collected under these rules for detention of cars through causes named below. Demurrage charges assessed or collected under such conditions shall be promptly canceled or refunded by the carrier.

* * * * *

SECTION E. Railroad errors which prevent proper tender or delivery.

Under the rules quoted no demurrage accrued on this shipment and therefore the demurrage charges collected were illegally assessed. *Middle West Coal Co. v. C. & O. Ry. Co.*, 41 I. C. C., 723. We further find that complainant paid and bore these demurrage and switching

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charges; that it has been damaged in the amount thereof; and that it is entitled to reparation from the Terminal Railroad Association of St. Louis in the sum of \$46, with interest, the amount of the demurrage charge, and from the Atlantic Coast Line Railroad Company, in the sum of \$3.21, with interest, the amount of the switching charge.

An order awarding reparation will be entered.

No. 9031.

ATLANTIC LUMBER COMPANY

v.

TOLEDO & OHIO CENTRAL RAILWAY COMPANY ET AL.

Submitted November 21, 1916. Decided July 9, 1917.

Failure of defendants to stop at Charleston, W. Va., for milling, a carload of lumber from Quick, W. Va., to Buffalo, N. Y., found to have resulted in damage to complainant. Reparation awarded.

I. F. Enos for complainant.

John M. Sternhagen for Toledo & Ohio Central Railway Company and New York Central Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the lumber business at Boston, Mass. By complaint, filed June 20, 1916, as amended, it alleges that defendants unlawfully failed to stop at Charleston, W. Va., for dressing, a carload of lumber shipped from Quick, W. Va., to the Buffalo Package Company, Buffalo, N. Y., on December 1, 1913. Reparation is asked. The claim was presented to the Commission informally August 3, 1914.

The bill of lading issued by the Kanawha & West Virginia Railroad Company bore the following instructions: "With stop-over at Morgan Lumber & Manufacturing Company, Charleston, W. Va., to be worked." The car, which contained 15,352 feet of lumber, was not stopped as directed but moved direct to Buffalo over the Kanawha & West Virginia to Charleston; Kanawha & Michigan Railway to Corning, W. Va.; and Toledo & Ohio Central and Lake Shore & Michigan Southern railways beyond. Upon arrival at Buffalo and before the car was unloaded it was discovered that the lumber had

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not been dressed. Complainant accordingly had the car switched to the mill of the Niagara Box Company at Buffalo, where the lumber was unloaded, milled, and drayed by the Niagara Box Company to the plant of the Buffalo Package Company, at a total cost of \$56.89, consisting of \$7 for switching, \$19.19 for milling, and \$30.70 for handling and drayage, which amount was paid and borne by complainant. Complainant seeks to recover the difference between the expense incurred at Buffalo and \$27.02, the amount it would have cost to stop and dress the lumber at Charleston.

At the hearing complainant stated that it had been quoted by the Morgan Lumber & Manufacturing Company, a price of \$1.50 per 1,000 feet for milling the lumber at Charleston, including all necessary handling. The mill of that company was located adjacent to the tracks of the Kanawha & Michigan. That carrier's tariff authorized stopping at Charleston for milling at a charge of \$4 per car. The expense of draying the dressed lumber to the Buffalo Package Company was computed to be less than would have been the expense of reloading into a car, switching at the published rate and unloading at final destination.

The Kanawha & Michigan in its answer admitted its responsibility for failure to stop the car as directed but did not appear at the hearing.

Complainant contends that it was further damaged because the through charges were collected on the weight of the rough lumber, whereas, if milled at Charleston, it was estimated the weight would have been reduced 5,372 pounds. The rule of the Kanawha & Michigan Railway cited in support of this contention reads as follows:

On shipments of lumber originating at points on the K. & M. Ry., or on connecting lines to be stopped on the K. & M. Ry., and reforwarded to a point beyond the line of the K. & M. Ry., where the weight has been reduced at the stop-off point, freight charges will be assessed on basis of the original weight (namely, before dressing, resorting, or partial unloading) from point of origin to the junction point at which delivery to connection is made by the K. & M. Ry. From such junction point to destination, freight charges will be assessed on basis of the reduced weight (namely, after dressing, resorting, or partial unloading).

It does not appear what rates the tariff proposes to assess but we are advised that it has been the custom to apply freight charges based on the divisions of the joint rate accruing to the carriers to and from the junction point. Such a provision is indefinite, improper, and unlawful, and can not furnish a basis for reparation. Moreover, the testimony with respect to the estimated reduction in weight lacks the degree of certainty necessary for basing an award of damages.

We find that the Kanawha & Michigan Railway Company failed to stop the car at Charleston for milling, as directed in the bill of lading and authorized by its tariff, and that as a consequence com-

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plainant was damaged to the extent of the difference between the expense incurred and borne by it at Buffalo and the expense which would have accrued had the shipment been stopped and milled as directed. We further find that complainant made the shipment as described; that it has been damaged and is entitled to reparation from the Kanawha & Michigan Railway Company in the sum of \$29.87, with interest. An appropriate order will be entered.

HALL, *Chairman*, dissenting:

As I read it, no provision of the act to regulate commerce was violated by the Kanawha & Michigan in the negligent handling of this shipment. Our power to award reparation is restricted to cases of such violation. Doubtless complainant suffered injury and should recover damages, but to my mind its remedy is in the courts.

46 L. C. C.

No. 8951.
COLUMBIA TRANSFER COMPANY
v.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.

Submitted September 8, 1916. Decided July 9, 1917.

Defendant's refusal to designate in its tariff one of complainant's "off-track" freight stations in St. Louis, Mo., found not to have been in violation of the act to regulate commerce. Complaint dismissed.

P. J. Dahl for complainant.

Wm. Gray for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant, a corporation, maintains and operates for defendant certain receiving and delivering stations at St. Louis, Mo. By complaint, filed June 5, 1916, it alleges that during October and November, 1914, a large number of shipments destined to interstate points were handled by it from one of its stations in St. Louis, which defendant had failed to designate in its tariffs; that defendant therefore refused to compensate complainant for handling this traffic; and that such refusal and failure to designate complainant's station in its tariff was unreasonable and unjustly discriminatory. The Commission is asked to order defendant to compensate complainant for the services rendered.

The shipments moved on the complainant's wagons from its receiving and delivering station at Second and La Salle streets, in St. Louis, during October and November, 1914, to the St. Louis station of the defendant and thence by rail to destination. The manner of conducting these so-called off-track stations, operated for the carriers by the transfer companies in St. Louis, is described in *St. Louis Terminal Case*, 34 I. C. C., 453, and need not be repeated. At the time of movement defendant's tariffs contained provisions for absorbing certain transfer charges to its St. Louis stations from designated off-track stations of the complainant and other transfer companies, but not including the station in question. The amount of compensation claimed is computed on the basis of the transfer charges paid by defendant between other off-track stations and

defendant's St. Louis station. On December 1, 1914, the omitted station was included with the other off-track stations from which the transfer charges would be absorbed.

It does not appear that defendant has violated any provision of the act to regulate commerce. An order dismissing the complaint will be entered.



No. 8984.

CLARENCE F. CAREY

v.

NORTHERN PACIFIC RAILWAY COMPANY ET AL



Submitted November 20, 1916. Decided July 11, 1917.



Reparation on a carload of cedar posts from Careywood, Idaho, to Ainsworth, Nebr., denied.

E. M. Fronk for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is engaged in the wholesale cedar lumber business at Spokane, Wash. By complaint, filed June 22, 1916, he alleged that the rate of 49 cents per 100 pounds charged by defendants on a carload of cedar posts shipped in April, 1914, from Careywood, Idaho, to Ainsworth, Nebr., was unreasonable, unjustly discriminatory, and in violation of the fourth section of the act. Reparation is asked and is the only issue involved. The claim was presented to the Commission informally December 10, 1915.

No evidence was offered at the hearing other than that introduced by complainant to prove the movement of the shipment and the payment of the freight charges thereon by complainant. The parties stipulated that the issue herein should be controlled by our decision in *Blackwell Lumber Co. v. M. P. Ry. Co.*, 42 I. C. C., 756, then pending. Following that decision, reparation is denied in this case. An order dismissing the complaint will be entered.

46 I. C. C.

No. 9195.

FLORENCE WAGON WORKS

v.

LOUISVILLE & NASHVILLE RAILROAD COMPANY ET AL.

**PORTIONS OF FOURTH SECTION APPLICATIONS Nos. 1952
AND 2060.**

Submitted April 7, 1917. Decided July 9, 1917.

Claim for reparation found to have been abandoned and complaint dismissed.
Fourth section relief denied.

George M. Stephen and H. A. Bradshaw for complainant.

Sid B. Jones for Louisville & Nashville Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant, Florence Wagon Works, was a corporation engaged in the manufacture and sale of wagons at Florence, Ala., until December 31, 1913. By complaint, filed September 18, 1916, on behalf of the Florence Wagon Company, its successor, it alleges that the rates charged by defendants for the transportation of certain less-than-carload shipments of iron castings, forgings, nuts, and bolts from Cleveland, Ohio, to Florence, during the period from January 6, 1910, to December 31, 1910, inclusive, were unreasonable unjustly discriminatory, unduly prejudicial, and in violation of the rule of the fourth section which prohibits the charging of a through rate in excess of the aggregate of the intermediate rates. Reparation is asked.

The claims were first presented to the Commission informally December 20, 1911. On April 28, 1913, after correspondence with the defendants, we were advised by defendant Louisville & Nashville Railroad that the complainant had advised it that the claims would be withdrawn. At the hearing a witness for complainant stated that it had instructed its attorney to withdraw the claims, but he did not know the date upon which the carrier was so notified. Although complainant's attorney was advised on May 21, 1913, and December 16, 1914, that the Commission had been informed that the complainant would withdraw the claims, no action was taken by the complainant prior to the filing of the formal complaint, more than three years later.

The informal presentation of the claims on December 20, 1911, tolled the statute of limitations. Complainant's failure, however to take any action within a reasonable time following notification by the Commission on May 21, 1913, of the status of the claims, must be viewed as an abandonment thereof, and complainant can not be permitted to revive them more than three years later by the filing of a formal complaint. *Dillon Coal & Transfer Co. v. O. S. L. R. R. Co.*, 28 I. C. C., 91.

Those portions of Louisville & Nashville Railroad Fourth Section Application No. 1952 and of agent J. F. Tucker's application No. 2060, wherein authority is sought to continue to charge for the transportation of iron castings, forgings, bolts, and rivets from Cleveland, Ohio, to Florence, Sheffield, and Tuscumbia, Ala., rates which are lower than the rates contemporaneously maintained on like traffic from or to intermediate points, were heard with the complaint. No effort was made by the carriers to justify the fourth section departures in issue. The applications will be denied to the extent that they are here involved.

Appropriate orders will be entered.

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No. 9257.
WARREN FISH COMPANY ET AL.
v.
LOUISVILLE & NASHVILLE RAILROAD COMPANY ET AL.

Submitted January 18, 1917. Decided July 9, 1917.

Charges on certain carload shipments of fish, packed in ice, in barrels, from Pensacola, Fla., to various interstate destinations were assessed upon the total estimated weight per package including ice contained therein; *Held*, That such charges were unreasonable to the extent that they exceeded charges which would have accrued based on the weight per package exclusive of the ice contained therein. Reparation awarded.

Arthur B. Hayes for complainants.

W. C. Dillard for Louisville & Nashville Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainants are the Warren Fish Company and E. E. Saunders & Company, corporations engaged in the fish business at Pensacola, Fla. By complaint, filed October 5, 1916, they allege that the charges assessed on numerous carloads of fish, in barrels, from Pensacola to numerous interstate destinations during the period from April 19, 1913, to January 2, 1915, inclusive, based upon the total estimated weight of the shipments, including the weight of ice in the barrels, were unreasonable and unduly prejudicial to the extent that they exceeded the charges which would have accrued upon the weight of the shipments, exclusive of the weight of the ice in the barrels. Reparation is asked. Claims covering nearly all of the shipments were filed with the Commission informally within the statutory period; but a few appear to be barred by the statute of limitations.

The shipments moved over defendants' lines and the measure of the rates assessed is not attacked. Fresh fish are shipped from the south either in bulk or in barrels in refrigerator or box cars. It is necessary in all cases that ice shall come in direct contact with the fish in order to preserve them in transit. When shipments are made in bulk a layer of crushed ice is placed in the bottom of the car and the fish are placed on the ice with another layer of ice on top. When shipped in barrels there are two layers of fish and three of ice in each barrel and after the barrels are placed in the car crushed ice is packed around them.

Prior to November 1, 1912, the southern classification, which governed, contained no provision for the free transportation of ice except that contained in the bunkers of refrigerator cars. On that date the classification was amended to provide for the free transportation of ice used as a preservative of freight and loaded in the body of the car, when such ice is not taken by the consignees at destination, but it was specifically provided that no allowance in weight would be made for ice in the same package with the freight. Defendants stated that the latter provision was not intended to affect the fish traffic, and it appears that prior to March, 1915, neither they nor the shippers became aware of the fact that a charge should have been made for ice carried in containers with fish. In the interim no charge had been made for the transportation of ice so shipped. As it was impossible for the defendants to determine the actual total weights of the shipments that had already moved, they made tests at complainants' plants from which it was determined that the average weight per barrel of fish packed in ice and ready for shipment was 290 pounds for barrels shipped in box cars, and 250 pounds for those shipped in refrigerator cars, and defendants accordingly billed complainants for the outstanding undercharges. It appears that the original freight charges on these shipments were paid by the consignees, but that the undercharges referred to, a portion of the amounts of which are in issue in this case, were paid by complainants, the consignors. Effective November 5, 1915, December 28, 1915, and January 1, 1916, defendants made specific provisions for the free transportation of ice in containers with fish, and these provisions have since been maintained.

Complainants' witnesses testified that the average weight of fish per barrel was approximately 200 pounds, and that the barrels weighed approximately 20 pounds each. Complainants rely principally upon a comparison of shipments in barrels with those in bulk, in connection with which latter shipments the ice placed in the body of the car was and is transported free. It was stated that fish shipped in barrels require about three-fourths of a pound of ice per pound of fish, including the ice packed around the outside of the containers, whereas bulk shipments require about $1\frac{1}{4}$ pounds of ice per pound of fish. In other words, in connection with a shipment of fish in bulk the carriers must transport $66\frac{2}{3}$ per cent more ice than is required for the same quantity of fish shipped in barrels. The icing in both cases is performed by and at the expense of the shippers and no re-icing is necessary. It appears that shipments in bulk are much more liable to contamination and deterioration than shipments in barrels and that, generally speaking, it is much more satisfactory both to shippers and carriers to ship fish in barrels than in bulk. It was testified

that after ice packed in containers with fish has served its purpose it is unfit for further use.

The Louisville & Nashville Railroad, which was the initial line and the only defendant represented at the hearing, admits that the charges assailed were unreasonable to the extent claimed.

We find that the charges assailed were unreasonable to the extent that they exceeded the charges that would have accrued on the basis of the weight of the shipments, exclusive of the weight of the ice in the barrels; that complainants made the shipments as described and paid and bore the amounts by which the charges based on the estimated weight per package, including the ice contained therein, exceeded the charges that would have accrued on the weights of the shipments, not including the ice in the barrels; that they have been damaged to the extent of the charges which they paid; and that they are entitled to reparation, with interest, on all of the shipments not barred by the statute of limitations. The exact amount of reparation due can not be determined on this record, and complainants should prepare statements showing the details of the shipments in accordance with rule V of the Rules of Practice together with the weight of the shipments exclusive of the ice in barrels, which statements should be submitted to defendants for verification. Upon receipt of statements so prepared and verified, we will consider the entry of an order awarding reparation. As the basis found reasonable has been applicable for more than a year, no order for the future is necessary.

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DIRECT NAVIGATION COMPANY.

No. 6633.

APPLICATION OF SOUTHERN PACIFIC COMPANY AND MORGAN'S LOUISIANA & TEXAS RAILROAD AND STEAMSHIP COMPANY, UNDER THE PROVISIONS OF SECTION 5 OF THE ACT TO REGULATE COMMERCE, AS AMENDED BY SECTION 11 OF THE PANAMA CANAL ACT, RELATIVE TO THE DIRECT NAVIGATION COMPANY.

Submitted February 7, 1916. Decided July 13, 1917.

Upon application of the Southern Pacific Company and Morgan's Louisiana & Texas Railroad & Steamship Company, under the provision of section 5 of the act to regulate commerce, as amended by the Panama Canal act, for an extension of time beyond July 1, 1914, during which petitioners may continue to operate or have an interest in the Direct Navigation Company; *Held:*

1. The Southern Pacific Company through its subsidiary, the Galveston, Harrisburg & San Antonio Railway Company, may and does compete with the Direct Navigation Company within the meaning of the act.
2. Under present conditions the existing service of the Direct Navigation Company is in the interest of the public and of advantage to the convenience and commerce of the people; its continued ownership and operation by petitioners will neither exclude, prevent, nor reduce competition on the route by water under consideration; and the application should be granted.
3. All the rates, schedules, and regulations applicable to the movement by the Direct Navigation Company of traffic subject to the act must be filed with the Commission and posted as required by the act to regulate commerce and the rules and regulations of the Commission.

Fred H. Wood; Denegre, Leovy & Chaffe; and Baker, Botts, Parker & Garwood for petitioners.

REPORT OF THE COMMISSION.

MEYER, Commissioner:

The Southern Pacific Company and Morgan's Louisiana & Texas Railroad and Steamship Company, hereinafter referred to as the Morgan Company, by joint application filed February 24, 1914, petition the Commission under section 5 of the act to regulate commerce, as amended by section 11 of the Panama Canal act, for an extension of time beyond July 1, 1914, during which they may continue to

operate or have an interest in the Direct Navigation Company, hereinafter called the navigation company.

The Southern Pacific Company owns substantially all of the capital stock of the Morgan Company, which has a railroad extending from Lafayette to Algiers, La., opposite New Orleans, La.; and of the Galveston, Harrisburg & San Antonio Railway Company, with lines extending from El Paso, Tex., to Houston, Tex., with a branch from Houston to Galveston, Tex.

The navigation company is a Texas corporation. Its outstanding stock consists of 507 shares of the par value of \$50,700, of which 500 shares are owned by the Morgan Company. It owns three tugs, six barges, wharves at Houston, and other property, the aggregate value of which is estimated at \$134,916.83. It operates on Buffalo Bayou between Houston and Galveston, a distance of about 65 miles. While the navigation company by its tariff offers to transport various kinds of freight, its principal function as at present operated is to provide a service auxiliary to petitioners' rails for the carriage of cotton from Houston to Galveston.

It is conceded by petitioners and we find that the Southern Pacific Company through its subsidiary, the Galveston, Harrisburg & San Antonio, may and does compete with the navigation company within the meaning of the act. It follows that the time during which petitioners may continue to operate or have an interest in the navigation company can not be extended under the terms of the statute unless we find that such extension is of advantage to the convenience and commerce of the people, and will neither exclude, prevent, nor reduce competition on the route by water.

Besides the Galveston, Harrisburg & San Antonio, the following railways operate directly between Houston and Galveston: The Atchison, Topeka & Santa Fe, Missouri, Kansas & Texas, International & Great Northern, and the Galveston, Houston & Henderson. Three other railways, the Trinity & Brazos Valley, the San Antonio & Aransas Pass, and the Gulf Coast Lines, reach Houston and participate in joint rates to Galveston with the lines enumerated above. The Southern Steamship Company affords a direct steamship service between Magnolia wharf, located about 3 miles south of Houston, and New York. Privately owned barges engaged in the transportation of shell and sand also operate from the Gulf coast to Houston.

The state of Texas produces each year a crop of cotton, estimated at 5,000,000 bales, a large proportion of which moves through Houston to Galveston either for export or for coastwise transportation. Eighty per cent of this movement is said to occur usually between September 1 and December 1, creating congested conditions on the rail lines at Houston and the wharves at Galveston. The manner in

which the navigation company aids in relieving this congestion is thus described by a witness for petitioners:

The navigation company will take cotton on leaving Houston in the evening and have it in Galveston the next morning. It therefore will sign a bill of lading when the shipment is ready to go to Galveston but it will probably hold that shipment at Houston or at the compress until it knows the date of sailing of the foreign vessel, then it will take that cotton down in time for that vessel, instead, as nearly all of the cotton moving by rail is assembled at Galveston some time in advance; so this gives good service and stores the cotton at a minimum in Galveston.

The rate on cotton, loaded by shipper, from Houston to Galveston via the navigation company and also via the rail lines is 6 cents per 100 pounds. Formerly the rates on cotton from the fields were 6 cents per 100 pounds higher to Galveston than to Houston, and it was the custom of shippers to concentrate the cotton at Houston on the inbound rates and later ship to Galveston on the local rate mentioned above. In 1914 this differential adjustment was abolished by the Railroad Commission of Texas and the rates from interior producing points to Houston and Galveston were made the same. Under this new adjustment rail tariffs naming through rates to Galveston provide for the compression or storage in transit of cotton at Houston, and the navigation company appears as a participating carrier in various tariffs containing such transit provisions. It was testified that the local movement of cotton from Houston to Galveston is at present negligible and that substantially all cotton passing through Houston to Galveston is handled under this transit arrangement. When the navigation company carries the traffic it receives 6 cents per 100 pounds as its proportion of the through rate.

Petitioners point out that the principal cotton-carrying lines extend directly from the cotton fields to Galveston and ordinarily would have no object in short hauling themselves by delivery to the navigation company at Houston; that under the present adjustment of rates from interior producing points to Houston and Galveston there is no inducement to have cotton unloaded to a barge at Houston unless such a course is demanded by some condition of temporary congestion; and that an independently owned barge line would be able to publish no better rates on cotton than does the navigation company. It is insisted that the controlling factor in determining whether cotton will move from Houston to Galveston by rail or barge is the condition of the market at the former point.

The cotton tonnage handled by the navigation company has dwindled from 132,633 tons in 1909 to 71,040 tons in 1914. This decline is said to be largely the result of improvement in railroad facilities between Houston and Galveston. It was testified that because of the loading and switching charges at both terminals

and the wharfage charges at Galveston the navigation company is unable to compete successfully with the rail lines; that there is no possibility of developing any considerable movement of local traffic between these points because with the exception of beer, fish, and oysters neither city produces commodities marketable in the other. During the year 1915 the navigation company handled less than 200 tons of cotton and practically ceased to operate. This paucity of tonnage is attributed to commercial conditions incident to the war.

A financial statement submitted by petitioners covers the operation of the navigation company during the fiscal years 1906 to 1915, inclusive. It shows an accumulated deficit of \$263,327.58. This figure includes a loss of \$39,829.39 incurred prior to 1906. The navigation company had a net gain in only three years of the above period, while its net loss for the entire period was \$223,498.19. In 1909, the year of its largest receipts, the profit from operations was \$33,974.07; in 1907, the year of its next largest revenue, it had a deficit from operations. Witness for petitioners expressed the opinion that the navigation company would be glad to withdraw from service if an independent barge company would undertake to furnish the same facilities. Questioned as to why petitioners were willing to continue operation of the navigation company at an annual loss he reiterated that this policy was followed because it relieved the rail congestion.

The record discloses no objection to the granting of the petition. On the contrary, the Houston Cotton Exchange and Board of Trade passed a resolution expressing the view that the present ownership and operation of the navigation company is in the interest of the public.

The attitude of petitioners toward the navigation company may be said to be one of indifference. Apparently no effort has been made to improve its facilities and service nor to stimulate its traffic by active solicitation. On the contrary, the service has deteriorated under petitioners' control. Taking the evidence as a whole, however, it appears that under present conditions the inducements for the operation of a barge line by independent interests between Houston and Galveston are meager, and that a severance of petitioners' interest in the navigation company might prove detrimental to the interests of the public.

The fact is impressive, however, that the petitioner whose rails parallel this waterway between Houston and Galveston by control of the navigation company is in a position to effectively prevent any independent water carrier from competing either with the navigation company or the petitioners' rails. Such a situation is undesirable. It may under changed conditions deprive the public of the quality

of service and competitive rates that would result from the normal use of this waterway. The Commission will therefore be disposed to again investigate the petitioners' control of the navigation company and determine whether a further extension of time during which the petitioner may operate this line should be granted at any time in the future that it may appear that independent interests are prepared to furnish a corresponding service.

We find that under present conditions the existing service of the navigation company is in the interest of the public and of advantage to the convenience and commerce of the people, and that its continued ownership and operation by petitioners will neither exclude, prevent, nor reduce competition on the route by water under consideration. The application will be granted subject to such further order or orders as may hereafter be entered by the Commission.

All the rates, schedules, and regulations applicable to the movement by the navigation company of traffic subject to the act must be filed with the Commission and posted as required by the act to regulate commerce and rules and regulations of the Commission on or before September 15, 1917.

46 I. C. C.

INVESTIGATION AND SUSPENSION DOCKET No. 604.
OFFICIAL CLASSIFICATION RATINGS.

Submitted June 3, 1916. Decided July 11, 1917.

Upon rehearing previous conclusion adhered to that increased ratings in the official classification on old beer cooperage, old beer bottles, and old bottle carriers have been justified.

Ernest S. Ballard and William W. Collin, jr., for respondents.

Luther M. Walter and John S. Burchmore for protestants.

Frank E. Williamson for Buffalo Chamber of Commerce.

H. W. Knoche for Northwestern Brewers Traffic Managers Association.

REPORT OF THE COMMISSION ON REHEARING.

HALL, Chairman:

In the original report in this case we found, among other things, that respondents had justified the proposed higher ratings in the official classification of old beer cooperage, old beer bottles, and old bottle carriers. *Official Classification Ratings*, 37 I. C. C., 166, 173, 176. Upon petition of certain brewery interests, for convenience here termed the protestants, the proceeding was reopened for further hearing in so far as affecting the commodities just mentioned, and in the light of the additional evidence adduced we are asked to find that the higher ratings now in effect are unreasonable, and to require the restoration of those previously maintained.

The term cooperage includes hogsheads, barrels, half barrels, quarter barrels, sixth barrels, and eighth barrels. Bottle carriers are wooden or steel boxes partitioned to accommodate one dozen or several dozen bottles. Beer bottles may be shipped in the specially provided carriers, or in almost any other form of package. The term "old" is intended to apply to these commodities when, after having been used, they are being returned to the brewery for further use. The movement is usually in mixed carloads.

Beer containers of all descriptions are branded with the name of the proprietary brewer, and under federal laws can, as a practical matter, be used by no other brewer. They are charged to the consignee of the beer when shipped, and are credited to him when returned. Until badly damaged or worn out they are practically as serviceable as when new, for the brewer's purpose, but have no

definite commercial value, as they are not generally the subject of purchase and sale.

The carload rating on these commodities, formerly sixth class, we permitted to be increased to fifth class. No change was made in the minimum, which is 16,000 pounds for a standard size car, subject to graded increases for larger cars in accordance with rule 27 of the classification. The less-than-carload ratings on old beer cooperage were permitted to be increased to third class from rule 26, 20 per cent below third class but not lower than fourth class. No change was proposed in the less-than-carload rating on the empty carriers, but the less-than-carload rating on old beer bottles in the carriers or other packages was permitted to be increased from third class to rule 25, 15 per cent below second class, but not lower than third class. These ratings are the same as are generally applied on the same articles when new.

The movement of the returned empties is largely over the line or lines that handled the beer outbound, although no such requirement is made by the classification. Protestants are willing to have the former ratings, if restored, restricted to shipments that do so move, and conditioned upon shipper's certificate to that effect. Respondents object to consideration of the certificate plan, contending that to apply one rate on containers returned via the line that handled the outbound movement and another rate on the same kind of containers not so returned would be to apply different rates from and to the same points on the same commodity under substantially identical conditions of carriage, in violation of section 2 of the act. In *Rates on Tin Cans and Other Commodities*, 37 I. C. C., 360, we said, page 362:

In principle rates should be no lower on an empty carrier returned than on a similar secondhand empty carrier. The return element should be disregarded. *Reduced Rates on Returned Shipments*, 19 I. C. C., 409.

For the purposes of this report we will proceed upon the premiss that in every case the line which carries the empties has previously had the haul of their beer content in the opposite direction. Carriers often regard the movement of a commodity in one direction and the subsequent reverse movement of the empty containers as in the nature of one transaction, but the record does not show that the present ratings on old beer containers bear any relation to or have any connection with the ratings on beer. It is the position of the protestants that containers should be regarded as facilities of transportation rather than articles of merchandise and that the return should be treated as a part of the beer movement in the opposite direction over the same line. To support their position they refer to provisions of the various classifications and exceptions.

Both the Illinois and western classifications provide for the return of beer containers at one-half the fourth-class rate, in any quantity. Under southern classification one-half the rate on beer in the opposite direction is applied on carload shipments of beer containers, while on less than carloads the rate is the same as on beer in the opposite direction. The carload minimum in southern classification is 10,000 pounds for the cooperage, 16,000 pounds for the bottle carriers, and 16,000 pounds on empty bottles and mixed shipments of cooperage, carriers, and bottles. The express classification provides for one-half the commodity rate on beer.

Under the express classification one-half the commodity rate is the maximum rate on returned empties of practically all kinds. That classification also provides some specific ratings on certain kinds of returned empties. For instance, meat boxes used by packers are returned for 10 cents each, regardless of distance. In the official classification returned meat boxes are rated third class in less than carloads, but under exceptions to the classification they are carried at fourth class. Southern classification and exceptions to the western classification provide for their free return.

Reduced ratings similar to those already referred to are found in the various classifications, except the official, on returned or used containers of various kinds, viz, cement and gunny bags; cheese, cracker, seed, and fish boxes; cider, vinegar, and oil barrels; tar oil, acid, ammonia, gas, and glycerine drums; egg cases; cracker, milk, and cream cans; poultry coops; berry, fruit, and vegetable crates; oyster pails; powder magazines; ice cream tubs and buckets; butter jars; bobbins, cores, reels, and spools, and others.

There are few ratings on empty returned or used containers in official classification, but exceptions thereto published by individual lines sometimes provide for special low ratings between certain points. Some of these articles, such as old oil barrels, while still valuable for many purposes are not worth as much as when new; others, such as vegetable crates, are of so little value that a very low rating is said to be necessary to permit their shipment or return to a point where they can be used again; while still others, such as milk cans, are, like returned beer containers, practically as serviceable as when new. We need not go further into detail. It is sufficient to say that the policy of granting reduced ratings on returned or used containers is quite prevalent, but much more so in the south and west than in official classification territory. In establishing certain of these ratings, particularly those on beer containers in the south and west, and on meat boxes generally, the carriers as a matter of business policy have in a sense treated the return movement of the containers as part of the outbound beer or meat movement

and have deemed the revenue derived from the outbound movement sufficient to compensate them for what they may have to give up in the way of profits through maintaining ratings on the returned containers lower than transportation conditions warrant. Respondents say that while they may, if they see fit, grant reduced ratings on that theory to assist the beer industry and to stimulate movement, this Commission can not, as a matter of law, compel them to adopt that policy. But beyond question we may look at all the facts, circumstances, and conditions bearing upon the ready movement of a commodity at fairly remunerative rates.

In our original report we referred to an exhibit filed by protestants covering 19,974 cars of empty beer containers of all kinds shipped during the year ended September 30, 1914, by 35 representative brewers in official classification territory, tending to show that the proposed carload rating would result in an average rate increase of 21 per cent; and one covering 21,857 less-than-carload shipments to show that the proposed ratings would result in an average rate increase of 20 per cent. Another showed that for the same year the 19,974 carloads above mentioned yielded ton-mile earnings of about 7.5 mills and car-mile earnings of about 7 cents. These figures were for an average haul of 331 miles. The average per car revenue was \$23.41. Under the rates and ratings now in effect the earnings would be \$29.91 per car, representing an increase of 27.7 per cent over the earnings at the former ratings. Had the rates and ratings now in effect been used on the movement for the year in question the ton-mile earnings would have been 9.48 mills and car-mile earnings 9.03 cents. Protestants have selected from the total movement of carload traffic for the year named 8,090 cars of beer containers shipped by brewers in trunk line and New England territories. On these cars the average carload weight was 18,155 pounds, the average haul 84.3 miles, the average per ton-mile earnings 18.51 mills, and the average car-mile earnings 16.8 cents. On the fifth-class basis now in effect the ton-mile earnings would have been 23.23 mills and the car-mile earnings 21.8 cents, or 29.7 per cent greater. Five large brewers at Milwaukee and St. Louis shipped 5,389 of the 19,974 cars above mentioned. Their shipments generally move long distances, but those of the 30 other brewers moved on the average only 153.7 miles. The average ton-mile revenue on the shipments of the 30 brewers was 11.87 mills and the car-mile revenue 11.16 cents. Under the present rates and ratings they would have been 15.02 mills and 14.13 cents, respectively. After beer is unloaded a shipment of empties is often loaded into the car without the necessity of respotting, thus affording a saving of terminal expense. Respondents contend that these earnings are

not abnormally high considering the shortness of the hauls. Some carriers have in the past discouraged the shipment of returned empties via their lines, for the reason that the traffic was not deemed sufficiently remunerative.

As already stated the present carload minimum on these commodities is 16,000 pounds. Protestants are willing that it should be increased to 18,000 pounds for refrigerator cars and 20,000 pounds for ordinary box cars. The average loading is now over 19,000 pounds. Such increase in the minimum weight would stimulate heavier loading, which is of course desirable, especially in times like these, and would give the carriers more revenue than at present on shipments billed at the minimum weight.

The evidence in the main relates to the three commodities collectively, but there is some special reference to the bottles. From points where glass bottles of all kinds are produced in large quantities they take commodity rates to important destinations which are generally less than the sixth-class rates. These are compared by protestants with the fifth-class rates which apply on old beer bottles. Although the rates on new bottles are considerably lower than on old beer bottles, the carload minimum is 30,000 pounds, and the revenue per car is therefore greater on new bottles than on old. Respondents show that many of these rates are affected by competition and by circumstances and conditions not pertaining to old bottles. It is not our understanding that any substantial portion of the movement of old beer bottles is in straight carloads.

Upon the record we are not prepared to subscribe to the theory that the reverse movement of the empties should be treated as part of the movement of the beer. When the carriers proposed to rate beer fourth class and we found that the existing fifth-class rating was reasonable and should be continued, our conclusion was not based upon evidence indicating that the fifth-class rate was high enough to compensate the carriers for any loss incurred through maintaining a lower rating on empty containers than transportation conditions warranted.

Upon consideration of all the facts now before us we are of opinion and again find that the present ratings on the commodities in question have been justified. The proceeding will accordingly be discontinued.

46 I. C. C.

No. 7045.¹

DEWEY BROTHERS COMPANY

v.

PITTSBURGH, CINCINNATI, CHICAGO & ST. LOUIS
RAILWAY COMPANY ET AL.

Submitted January 28, 1916. Decided July 11, 1917.

1. Former decision prescribing reasonable maximum rates of 15.4 cents and 14.9 cents per 100 pounds on grain products from Trebein and Leesburg, Ohio, respectively, to points on the Norfolk & Western Railway between Kenova, W. Va., and Roanoke, Va., affirmed on rehearing.
2. The maintenance of rates on classes and commodities from central freight association territory to Salem, Va., and points east thereof on the Norfolk & Western Railway lower than to intermediate points found not justified.

No appearance for complainant.

R. Walton Moore and Charles D. Drayton for defendants.

O. S. Lewis for Baltimore & Ohio Southwestern Railroad Company.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION:

These cases, originally decided April 30, 1915, 34 I. C. C., 135, are before us on rehearing.

Dewey Brothers Company, the complainant in all of these cases, is a corporation engaged in the grain, feed, and flour business at Blanchester, Ohio. Complainant alleged that the rates charged by defendants for the transportation of grain and grain products, in carloads, from Trebein and Leesburg, Ohio, to various destinations in West Virginia, Kentucky, and Virginia, were unreasonable, unjustly discriminatory, and in violation of the fourth section of the act to regulate commerce. Those portions of Fourth Section Applications Nos. 1561 and 2069 filed, respectively, by the Norfolk & Western Railway and J. F. Tucker, agent, wherein authority is sought to charge rates on grain and grain products from Trebein and Leesburg, Ohio, to Norfolk, Va., lower than the rates contemporaneously applicable on like traffic to intermediate points on the Norfolk & Western Railway, were heard with the complaints.

¹ The report also embraces Nos. 7170 and 7170 (Sub-No. 1), *Same v. Baltimore & Ohio Southwestern Railroad Company et al.*; No. 7170 (Sub-No. 2), *Same v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company et al.*; and also Fourth Section Applications Nos. 1561 and 2069.

Reparation and the establishment of reasonable rates for the future were asked. Rates are stated herein in cents per 100 pounds.

Trebein and Leesburg are located in central freight association percentage group territory. The group in which Leesburg is located takes a differential of one-half cent per 100 pounds on eastbound grain and grain products under the group in which Trebein is located.

Trebein is on the Pittsburgh, Cincinnati, Chicago & St. Louis Railway, 59 miles southwest of Columbus, Ohio, and 69 miles northeast of Cincinnati, Ohio. Leesburg is on the Baltimore & Ohio Southwestern Railroad, approximately 35 miles southeast of Trebein and 34 miles west of Chillicothe, Ohio. The destination points involved in the complaints are main and branch line stations on the Norfolk & Western, all but three between Kenova and Bluefield, W. Va., on the main line of that carrier, 139 miles and 344 miles, respectively, southeast of Columbus.

When the shipments moved the rates on grain products to the destinations involved were, from Trebein 19.5 cents and from Leesburg 19 cents. The rates applicable to Norfolk at the time of the original hearing were 14.5 cents from Trebein and 14 cents from Leesburg, increased January 15, 1915, following *The Five Per Cent Case*, 31 I. C. C., 351, to 15.4 cents and 14.9 cents, respectively. At the same time the rates from points in central freight association territory, generally, to Norfolk & Western stations were increased 5 per cent. We found in our original report herein that defendants' application for authority to charge rates on grain and grain products from both Trebein and Leesburg to Norfolk lower than the rates contemporaneously applicable on like traffic to intermediate points west of and including Bluefield should be denied.

Under the tariffs in effect at the time of the original decision and now in effect, the rate on grain products from Trebein to Roanoke, Va., was and is 1.6 cents higher than the rate from Columbus; the rate from Leesburg 1.1 cents higher than the rate from Chillicothe. The distances to destinations are 59 miles greater from Trebein than from Columbus and 34 miles greater from Leesburg than from Chillicothe. We found that 1.6 cents and 1.1 cents were reasonable differentials over the rates from Columbus and Chillicothe, and, in conformity with our finding relative to the fourth section question involved, held that there was no reason why those differentials established on traffic to Norfolk should be exceeded on traffic to main-line points west of and including Bluefield; and that, therefore, the rates on grain products from Trebein and Leesburg to main-line points on the Norfolk & Western west of and including Bluefield were, and for the future would be, unreasonable to the extent that they ex-

ceeded, or exceed, respectively, 15.4 cents and 14.9 cents. We also found that the rates to the branch-line points west and east of Bluefield were not shown to have been unreasonable. Reparation was denied. Complainant's shipments consisted only of grain products, and its evidence was directed to show the unreasonableness of the rates on grain products. We therefore made no findings as to the rates on grain, except under the fourth section. We stated, however, that the existing relationship between rates on grain and on grain products should be preserved, and that nothing we said in that report should be construed as in any way altering or disturbing such adjustment.

Upon petition filed on behalf of the Norfolk & Western Railway, hereinafter called the defendant, we annulled and set aside our previous orders in these proceedings and reopened the cases. In that connection we also set for hearing the above-mentioned fourth section applications to the extent that by them authority is sought to continue to charge rates on classes and commodities, from points in central freight association territory to Norfolk, Roanoke, and Salem, Va., and points taking the same rates, which are lower than the rates contemporaneously applicable to intermediate points on the line of the defendant.

The Norfolk & Western lines from Cincinnati and Columbus unite at Portsmouth, Ohio. The line extends easterly across the Ohio River to Kenova, and thence to Roanoke, Lynchburg, Petersburg, and Norfolk. The road from Columbus to Norfolk is known as the main line and is about 700 miles in length, but Cincinnati is also to every intent a main-line western terminus. Branch lines, among others, are also operated from Bluefield to Norton, Ky., and from East Radford to Bristol, Va.-Tenn. In connection with the Louisville & Nashville Railroad and the Southern Railway through routes are formed from the west to Roanoke and points east by way of Norton and Bristol.

Rates from Cincinnati, Columbus, Chicago, and points in central freight association territory generally are and long have been blanketed as to all points on defendant's main line from Roanoke to Norfolk, both inclusive. Many of these rates, perhaps all of them, apply at Salem, a station 7 miles west of Roanoke, but Roanoke is a point of consequence and will be used in this report as the most westerly point in the blanket. With certain exceptions not here material, the class rates from points in central freight association territory, beyond defendant's lines, to stations between Kenova and Roanoke are constructed by adding to the rates to Norfolk the following differentials in cents per 100 pounds:

Classes	1	2	3	4	5	6
Differentials	12	10	8	7	6	5

Prior to the decision of the Commission in *Bluefield Shippers Association v. N. & W. Ry. Co.*, 22 I. C. C., 519, hereinafter referred to as the *Bluefield Case*, rates from Columbus and Cincinnati to Roanoke and points east were also lower than the rates to points west of Roanoke. In that case the rates on classes and on grain and grain products from Columbus, Cincinnati, Chicago, Pittsburgh, and other points to Bluefield were attacked as unreasonable and in violation of the fourth section.

We found that the rates from Columbus and Cincinnati to Bluefield were unreasonable, and prescribed, as reasonable maximum rates from both Columbus and Cincinnati on the respective classes: 54.5, 47, 35.5, 24, 20, and 16 cents; on grain, 12.5 cents, and on grain products, 13 cents. These rates were the same as defendant's rates from Columbus to Roanoke and points east. We also prescribed reasonable rates from Pittsburgh to Bluefield. We further held that, while the rates from Chicago to Bluefield were ample, they were not excessive. With respect to the fourth section application heard with the complaint, we said:

Under these holdings we shall permit the charging of higher rates at intermediate points than to Roanoke, and points east, from Pittsburgh, Columbus, Cincinnati, Chicago, and kindred points, so long as the present rates from these points to Roanoke and points beyond do not exceed those now in effect and provided that no higher rates are charged at Bluefield and points west than have been found reasonable from Cincinnati, Columbus, and Pittsburgh.

In conformity with the decision in the *Bluefield Case* the rates from Cincinnati and Columbus to Bluefield and points west were made no higher than the rates prescribed by the Commission to Bluefield. From central freight association territory beyond defendant's rails the differentials over the Norfolk-Roanoke rates above mentioned were, however, maintained to all points west of Roanoke, and from Columbus and Cincinnati higher rates were likewise maintained to points west of Roanoke to but not including Bluefield than applied to Roanoke and points east.

Subsequently to *The Five Per Cent Case*, *supra*, under an amendment to our fourth section order in the *Bluefield Case*, defendants not only increased the rates from Cincinnati, Columbus, and other points in central freight association territory to points on defendant's line 5 per cent, but increased the rates from Cincinnati to Bluefield and points west over the rates from Columbus by the amount of the difference between the rates from Cincinnati and Columbus to the Virginia cities. Defendant states that prior to our decision in the *Bluefield Case* the rates from Cincinnati to the Virginia cities were on the basis of 87 per cent of the Chicago-New York rates, while Columbus was a 77 per cent point, and that in making the readjustment to Bluefield and intermediate points Cincinnati was re-

stored to the old basis and the rates from Cincinnati to Bluefield and intermediate points were made the same as the rates from Cincinnati to Roanoke. We specifically found, however, in the *Bluefield Case* that the rates from Cincinnati and Columbus to Bluefield should be the same.

The history of the rates from central freight association territory to Roanoke and points east was fully set forth in the *Bluefield Case*.

Briefly stated, years ago competition between carriers serving New York, Philadelphia, Baltimore, and Norfolk from central freight association territory resulted in an arrangement by which a certain relation of rates was established between the different ports. Taking New York as the base, Philadelphia was made 2 cents, and Baltimore 3 cents, lower. Richmond, Lynchburg, Norfolk, and other Virginia cities sell surrounding territory in competition with Baltimore. If the business is done through Baltimore, the freight may reach that point by the Baltimore & Ohio, but not by the Chesapeake & Ohio. The Chesapeake & Ohio has insisted that the rates from the west to the Virginia cities shall not be higher than the rates to Baltimore. The most westerly of these Virginia cities served by the Chesapeake & Ohio is Lynchburg, and that city for many years has been accorded by the Chesapeake & Ohio the Baltimore rate, which, as stated, is the same as the rate to Norfolk, and which is generally known as the Virginia cities rate. The Chesapeake & Ohio, ever since the passage of the act to regulate commerce, has observed the rule of the fourth section; that is, it makes no higher rate to any point upon its main line than that to a more distant point. At the time of the passage of the act Roanoke was served by defendant and also by the Shenandoah Valley Railway, which ran from Hagerstown, Md., to Roanoke. In connection with the Chesapeake & Ohio, the Shenandoah Valley Railway published the Virginia cities rate to Roanoke from the west by way of a junction with the Chesapeake & Ohio, 40 miles north of Roanoke. Defendant did not meet the rates established to Roanoke by these lines at first, but in 1890 it obtained control of the Shenandoah Valley and then established by its line to Roanoke the same rates as had previously been in effect by this competing line, namely, the Virginia cities rate. From 1890 to 1909 defendant was the only line serving Roanoke, but in 1909 the Virginian Railway, running from Deepwater to Norfolk, was opened for business. This line passes through Roanoke, runs westerly parallel with defendant's line for some distance, and connects with the Chesapeake & Ohio at Deepwater. The Virginian Railway forms, in connection with the Chesapeake & Ohio, another line from the west to Roanoke and maintains at Roanoke the Virginia cities rate. While the Chesapeake & Ohio observes the long-and-short-haul rule of the fourth section in the

construction of its rates from western points of origin to all points upon its main line east, the Virginian Railway does not observe this rule at points between Deepwater and Roanoke, but maintains to all those intermediate points rates which are higher than the rates to Roanoke. The distance from Cincinnati to Roanoke by way of the Chesapeake & Ohio and the Virginian Railway is less than the distance between the same points by way of defendant's line, but the difference in distance is slight.

Defendant seeks to justify the maintenance of lower rates from central freight association territory to Roanoke and points east than to intermediate points upon the following grounds: (1) That competition with the Chesapeake & Ohio Railway has compelled it to establish the same rates to Virginia cities; (2) that those rates are subnormal; (3) that they pay not much more than the cost of hauling; (4) that the rates to intermediate points are not unreasonable.

There can be no question but that the rates to the Virginia cities are lower than they might properly be. Defendant urges that these rates pay out of pocket expenses of conducting transportation but do not contribute their proportionate share in meeting operating expenses and yielding profit.

Prior to 1890 the rates to defendant's local stations both east and west of Roanoke were constructed on the basis of varying differentials over Virginia cities rates, the amount of such differentials increasing as the distances from Norfolk increased. The differentials over Norfolk to points east of Roanoke were 12 cents first class and 6 cents sixth class. West of Roanoke the differentials ran as high as 35 cents first class and 20 cents sixth class. East of Roanoke defendant's line and the Chesapeake & Ohio closely parallel one another. Cross-country competition and the fact that defendant's line in this section is intersected frequently by other lines made it necessary in 1890 to reduce the rates on that portion of defendant's line to the Virginia cities basis. It is said that the topography of the country west of Roanoke is strikingly different from that east. West of Roanoke defendant's line and the Chesapeake & Ohio, while parallel to some extent, are farther apart generally than east of Roanoke. There is a mountain range west of Roanoke which separates the two valleys in which defendant and the Chesapeake & Ohio, respectively, operate. The wagon roads naturally follow the valleys, so that the territories through which these roads operate are separated. There is, therefore, no possibility of cross-country competition from stations on one road to intervening territory across the mountains. From Kenova to Bluefield, a stretch of 205 miles, the country is mountainous, and it is said that the only traffic produced in that section consists of products of mines and forest.

In 1892, when the Ohio extension of defendant's line was completed, opening up a continuous line from Columbus, the basis for making rates from the west to stations west of Roanoke-Salem, including the Bristol and Norton lines, and other branch lines in that section was changed by the adoption of the present differentials over Virginia cities. This adjustment resulted in blanket rates to between 500 and 600 stations. Defendant states that, generally speaking, the whole territory, main line and branches, between Kenova and Salem, is engaged in the same kind of business, i. e., coal and lumber, with an occasional jobbing house, and that the blanket or zone adjustment is the most satisfactory to all concerned and most conducive to the proper development of the territory. It asserts that jobbers have found it to their advantage to locate houses between Kenova and Roanoke to supply the trade in lieu of attempting to supply it from the more distant Virginia cities; that this indicates that there is not a relationship in rates existing to-day as between the Virginia cities and the intermediate territory which results in unjust discrimination against the intermediate territory and undue preference to the Virginia cities; and that as the rates to the intermediate points are higher than to the Virginia cities only to the extent of the local rates for the first 5-mile block under defendant's class-rate distance scale, the Virginia cities can not ship class-rate traffic back to the intermediate territory a greater distance than 5 miles without paying a combination of rates which would exceed the through rates to such intermediate territory. Defendant states its distance scale originated in the highly competitive territory of eastern Virginia, where there are much larger and older settlements, where railroads are more numerous, where there is greater density of traffic, and where the country lends itself more readily to railroad construction at less expense than the mountainous territory west of Roanoke; and that in observing this distance scale as a maximum in constructing rates on those portions of its lines running through West Virginia it has accorded that section advantages which its situation does not warrant.

Defendant further urges that its line has been expensive to construct and is expensive to operate, especially between Kenova and Bluefield, where the grades are heavy, the curves severe, and where it has been necessary to construct a total of 31 tunnels, aggregating about 6 miles in length. It asserts that but for its coal and coke traffic, which constitutes over 70 per cent of its total traffic, and yields over 60 per cent of its total revenue, there would hardly be warrant for the operation of a railroad between Kenova and Roanoke. Defendant's rates on coal are not here involved, as they conform to the fourth section.

To show that the rates to the intermediate territory are reasonable, defendant compares the class rates from Chicago and Cincinnati to Bluefield with the class rates to other points south of the Ohio River, as follows:

	Distance (miles).	1	2	3	4	5	6
From Chicago, Ill., to—							
Bluefield, W. Va.....	636	87.8	75.3	57.5	40.8	34.5	28.3
Chattanooga, Tenn.....	638	105.0	90.0	75.0	59.0	51.0	39.0
Knoxville, Tenn.....	582	111.0	95.0	79.0	62.0	53.0	40.0
Nashville, Tenn.....	492	73.0	63.0	50.0	38.0	31.0	25.0
From Cincinnati, Ohio, to—							
Bluefield, W. Va.....	351	65.6	56.4	42.7	29.0	24.4	19.9
Chattanooga, Tenn.....	388	70.0	60.0	53.0	44.0	38.0	29.0
Knoxville, Tenn.....	276	76.0	65.0	57.0	47.0	40.0	30.0
Nashville, Tenn.....	300	53.0	48.0	39.0	31.0	26.0	20.0
Big Stone Gap, Va.....	290	80.0	69.0	58.0	53.0	40.0	44.0

Defendant states that the above comparisons are between rates to a noncompetitive station on defendant's line and rates to important manufacturing and commercial cities, the rates to which have been depressed by reason of keen competition, and that if comparisons are made with normal rates in the south, the showing would be more favorable to defendant. It shows that in *Fourth Section Violations in the Southwest*, 32 I. C. C., 61, the Commission prescribed as the maximum scale for 350 miles, approximately the same distance as from Cincinnati to Bluefield, rates as follows:

Classes	1	2	3	4	5	6
Rates	103	89	73	69	55	47

or the following amounts higher than the Cincinnati-Bluefield rates:

Classes	1	2	3	4	5	6
Rates	37.4	32.6	30.3	40	30.6	27.1

The fourth section was intended to restrain carriers from continuing lower rates to more distant points except in special cases where relief from the long-and-short-haul requirements is afforded by the Commission. This relief we have afforded in cases where the carriers operated rail lines in competition with strong water lines. We have also afforded relief where carriers operated circuitous routes in competition with more direct lines. The fundamental reason for granting relief, however, to any line at a given point is the meeting at that point of the competition of other carriers against which competition the petitioner is at a disadvantage. In so far as this record shows, defendant is at no disadvantage in meeting the competition of the Chesapeake & Ohio. As stated, the latter carrier does not violate the fourth section over its own line, and the contrary practice of the defendant is anomalous at best. We find that the defendants have not justified the maintenance of lower rates from central freight association territory to Norfolk,

Roanoke, and Salem and points taking the same rates than to intermediate points. We appreciate that this decision is contrary to that reached in the *Bluefield Case*, but that case involved a different territory and presented different issues.

In *Washington Milling Co. v. N. & W. Ry. Co.*, 27 I. C. C., 546, we prescribed a rate of 15 cents on grain products in carloads from Washington Court House, Ohio, a point 40 miles southwest of Columbus, and in the same general territory as Trebein and Leesburg, to points on defendants' lines east of Kenova to and including Bluefield. In *Dewey Bros. Co. v. B. & O. S. W. R. R. Co.*, Docket No. 6264, decided July 1, 1914, unreported, following the *Washington Milling Co. Case*, *supra*, we prescribed a rate of 15.5 cents on grain products from Leesburg to Marytown, W. Va., a point between Kenova and Bluefield. The rate charged in each of those cases was 19 cents, constructed of 14 cents, at that time applicable from the respective groups in which Washington Court House and Leesburg are located, to the Virginia cities, plus the 5-cent differential to points between Kenova and Roanoke. In each of those cases the rates prescribed were 2 cents lower than the combinations of local rates contemporaneously in effect, but they were higher than the rates contemporaneously applicable to Norfolk. In neither case, however, did we consider the departures from the long-and-short-haul rule of the fourth section.

To show that the rates from Leesburg and Trebein to the territory intermediate to Roanoke are reasonable defendant compares these rates with the rates from the same points of origin to other points south of the Ohio River, as follows:

From Leesburg and Trebein to—	Distance.	Leesburg.		Distance.	Trebein.	
		Grain, C. L.	Flour, C. L.		Grain, C. L.	Flour, C. L.
	<i>Miles.</i>	<i>Cents.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Cents.</i>	<i>Cents.</i>
Bluefield, W. Va.....	327	19.3	19.9	403	19.9	20.4
Christiansburg, Va.....	400	19.3	19.9	476	19.9	20.4
Barytes, Va.....	494	19.3	19.9	570	19.9	20.4
Big Stone Gap, Va.....	354	27.4	21.2	359	26.8	26.8
Chattanooga, Tenn.....	402	28.4	27.2	407	26.8	26.8
Knoxville, Tenn.....	340	28.4	27.2	345	26.8	26.8
Nashville, Tenn.....	304	23.4	23.2	309	21.8	22.8

The average distance from Trebein to points between Kenova and Bluefield, both inclusive, is 301 miles and from Leesburg, 224 miles. The rates heretofore prescribed by us in these cases will yield an average per ton-mile revenue of 1.02 cents from Trebein and 1.33 cents from Leesburg. We adhere to our former finding respecting them, and as to reparation.

Appropriate orders will be entered in accordance with the findings herein announced.

No. 8883.

PRICE BROTHERS & COMPANY, LIMITED,
v.
CANADIAN NORTHERN RAILWAY COMPANY ET AL

Submitted September 23, 1916. Decided July 11, 1917.

Rate on news print paper in carloads from Jonquiere, Quebec, to Wilkes-Barre, Pa., not shown to have been unreasonable. Complaint dismissed.

Peyton P. Bennett for complainant.

No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

The complainant is a Canadian corporation, engaged in the manufacture of lumber, laths, shingles, wood-pulp board, and news print paper, with its principal office in the city of Quebec and a paper mill at Jonquiere, Quebec. By complaint, filed April 28, 1916, it alleges that the combination rate of 37 cents per 100 pounds charged by defendants on a carload of news print paper shipped May 5, 1914, from Jonquiere to Wilkes-Barre, Pa., was unreasonable to the extent that it exceeded 27 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipment, weighing 52,500 pounds, moved as routed by complainant over the Canadian Northern Railway to Montreal, Quebec; Canadian Pacific Railway to Delson Junction, Quebec; Napierville Junction Railway to Rouses Point, N. Y.; Delaware & Hudson to Wilkes-Barre. Charges thereon were collected in the sum of \$194.25 based on a rate of 37 cents, composed of a rate of 15 cents to Montreal, which rate is not on file with this Commission, and a rate of 22 cents beyond, which rate was legally applicable. At the time of movement a joint commodity rate of 27 cents was in effect on news print paper, in carloads, from Jonquiere to Harrisburg, Pa., over the Canadian Northern to Hawkesbury, Ontario; Grand Trunk Railway to Rouses Point; Delaware & Hudson to Wilkes-Barre; and Pennsylvania Railroad to Harrisburg, or Central Railroad of New Jersey from Wilkes-Barre to Allentown, Pa., and the Philadelphia & Reading Railway to Harrisburg.

This rate, which was published by the Canadian Northern, was not applicable on shipments to Wilkes-Barre, an intermediate point,

but that carrier's tariff provided, conformably to rule 77 of Tariff Circular 18-A, for the publication, upon reasonable request therefor, of rates to any intermediate point not in excess of those to more distant points. This is a substantial compliance with the requirements of the fourth section. *Kosse, Shoe & Schleyer Co. v. C., C., C. & St. L. Ry. Co.*, 41 I. C. C., 602.

Witness for complainant testified that on April 20, 1914, the Canadian Northern was requested to advise the best rate on news print paper from Jonquiere to Wilkes-Barre for immediate shipment; that on April 24, 1914, no reply having been received, the complainant communicated with defendant's agent over long distance telephone requesting the establishment of the Harrisburg rate to Wilkes-Barre; that on the same date a rate of 33 cents was quoted via the route of movement.

No evidence was introduced tending to prove the rate applied unreasonable, complainant's sole contention being that it was forced to pay the rate assessed on account of the failure of the Canadian Northern to comply promptly with its request for the establishment of the Harrisburg rate to Wilkes-Barre.

None of the defendants was represented at the hearing. In its answer the Canadian Northern denies that it was requested to establish the Harrisburg rate to Wilkes-Barre on the dates mentioned; that in response to request from complainant in June, 1914, it established, effective August 17, 1914, a rate of 25 cents, since increased to 26 cents.

Complainant requested the best rate for immediate shipment. This the Canadian Northern attempted to give, although by doing so it erroneously quoted a rate of 33 cents.

Complainant alleges that the Canadian Northern has in other instances refused to establish rates at intermediate points, notwithstanding the fact that the tariffs naming the rates to the farther distant points carried reference to rule 77 of Tariff Circular 18-A. The effect of the failure of the carrier to establish rates at intermediate points in conformity to such rule was fully discussed in *Missouri River Building Stone Rates*, 28 I. C. C., 269, and need not be repeated here. The establishment in August of the rate requested in June can not, under the promise made in the tariff, be considered as properly prompt action.

The complaint must be dismissed and an order will be entered accordingly.

No. 9049.
FARGO IRON & METAL COMPANY
v.
GREAT NORTHERN RAILWAY COMPANY.

Submitted November 13, 1916. Decided July 12, 1917.

Prior to August 1, 1910, a quantity of junk was accumulated at Fargo, N. Dak., pursuant to transit provisions in defendant's tariff which did not limit the time within which the junk could be reforwarded from the transit point under the through rates from points of origin to destination. On the date named defendant's tariff was amended to limit the transit period to one year, and thereafter complainant's transit balance, representing part of the junk so accumulated, was canceled. On a shipment forwarded in April, 1915, from Fargo to St. Paul, Minn., charges were assessed on the basis of the local rate from and to those points. *Held*, That the lawful rate was the through rate in effect when shipments moved to Fargo and that charges and transit balances should be adjusted accordingly. Complaint dismissed.

Barnett & Richardson for complainant.

J. F. Finerty for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the junk business at Fargo, N. Dak. By complaint, filed July 14, 1916, it alleges that under defendant's transit tariff in effect prior to August 1, 1910, a large quantity of junk was accumulated in complainant's yard at Fargo for sorting, on which the freight charges from points of origin north and west of Fargo through to defendant's eastern terminals, together with the transit charges, had been paid; that in the said tariff publishing charges and regulations applicable to the traffic no time limit for reshipment from Fargo was specified; that on April 9, 1915, complainant reshipped a carload of the junk from Fargo to St. Paul, Minn., one of the eastern terminals; and that defendant, having theretofore canceled complainant's transit balance representing junk on hand and accumulated prior to August 1, 1910, assessed against the shipment the local rate from Fargo to St. Paul. The charges assessed are alleged to have been unreasonable. Restoration of the canceled transit balance and reparation are asked.

Prior to August 1, 1910, defendant's tariff under which the traffic originated prescribed no time limit for the transit service. Effective

that date, defendant so amended its tariff as to restrict the transit period to one year, in accordance with Conference Ruling No. 204, then recently promulgated. At that time complainant had accumulated at Fargo about 2,500,000 pounds of junk. It appears that for a time thereafter the surplus of outbound shipments over and above what was necessary to take care of the "limited" balances, representing tonnage accumulated at the transit point after August 1, 1910, was charged against the old or "unlimited" account. In October, 1912, however, defendant canceled the "unlimited" transit balance, then amounting to 1,471,205 pounds. Complainant's representative testified that that tonnage, while probably including some junk delivered at Fargo by the Northern Pacific Railway, has been and still is segregated in its sorting yard and could be shipped within a few months; also, that complainant did not become aware of the amendment of the transit rule until June 1, 1911. Defendant expressed willingness to restore the canceled balance if authorized to do so.

We have held, with respect to shipments moving in connection with transit arrangements, that the rates and regulations lawfully applicable to the transportation and transit service were those in effect when the shipments originated. Thus, in our supplemental report in *The Transit Case*, 25 I. C. C., 130, 133, we said:

The rate in effect at the time shipment began to move is the rate lawfully applicable. In case a privilege has been enjoyed prior to the date of an order, a tariff canceling such privilege does not affect tonnage that began to move prior to the cancellation, but such tonnage is subject to the policing requirements.

We were not there dealing especially with transit services available without limit as to time. We do not say that indeterminate transit rights may not in some proper way be brought within reasonable limits, but as to transit traffic on hand, this may not be done by an arbitrary retroactive application of a newly established rule.

Upon consideration of all the facts and circumstances, we find that the charges assailed were unlawful and unreasonable. The record discloses that the charges on the shipment which moved out from the transit point after the transit balance was canceled have not been finally adjusted. The rate legally applicable was the through rate in effect at the time of movement to Fargo. The parties will be expected to adjust the charges and the transit balances accordingly.

An order will be entered dismissing the complaint.

46 I. C. C.

No. 9122.¹
PACIFIC COAST BEEF & PROVISION COMPANY
v.
OREGON SHORT LINE RAILROAD COMPANY.

Submitted February 19, 1917. Decided July 9, 1917.

Reasonableness and lawfulness of charges in connection with the feeding, watering, and resting of hogs in carloads at points on defendants' lines found not to be within the jurisdiction of the Commission. Complaints dismissed.

F. P. Gregson and R. S. Sawyer for complainant.

H. A. Scandrett, George H. Smith, John O. Moran, and James E. Kelby for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

These complaints were filed August 29, 1916, by the Pacific Coast Beef & Provision Company, a corporation formerly engaged in the packing-house business, with its principal office at Los Angeles, Cal., and relate to certain so-called "yardage charges" assessed on certain carloads of hogs shipped to Los Angeles from points in Idaho, Oregon, Colorado, and Utah, during the period from September 3, 1914, to June 21, 1916, inclusive. A so-called "yardage charge" was assessed at points at which the shipments were stopped in transit and collected on each shipment in addition to the transportation charges, and complainant alleges that these yardage charges were illegal and unreasonable. Reparation is asked.

The act of June 29, 1906, known as the federal 28-hour law, prohibits carriers over whose lines animals shall be conveyed from confining the same for a period longer than 28 consecutive hours, 36 hours in excepted cases, without unloading them into properly equipped pens for rest, water, and feed for a period of at least 5 consecutive hours, and also provides that animals so unloaded shall be properly fed and watered during such rest, either by the owner or person having custody thereof, or in case of his default in so doing, then by the railroad transporting the same "at the reasonable expense of the owner." In accordance with the provisions of this

¹ The report also embraces No. 9122 (Sub-No. 1), Pacific Coast Beef & Provision Company v. San Pedro, Los Angeles & Salt Lake Railroad Company.

act, the shipments in question were stopped at points on defendants' lines, and the hogs were unloaded into yards owned or furnished by defendants, and rested, watered, and fed. Defendants show that while the feed was furnished by complainant the necessary services incident to unloading, watering, feeding, and resting the hogs were performed by the Leary & Warren Company, an independent contracting firm, engaged in operating stockyards and hereinafter called the independent contractor, at charges ranging from \$1 to \$1.50 per car; that these charges were later collected from complainant together with the freight charges at destination; that the amount of the charges so collected was subsequently paid to the independent contractor. While the charges so collected were designated "yardage charges," the record clearly shows that they did not represent rental of the pens into which the hogs were unloaded but charges for services that the independent contractor claims to have rendered in unloading, watering, feeding, and reloading the shipments. No tariff was on file providing for the yardage charges so assessed.

The evidence is conflicting as to whether the services in question were performed by caretakers who accompanied the shipments or by the independent contractor, but the preponderance of the evidence is that they were performed by the latter and, in most instances, at the direction of the accompanying caretakers.

In *Streever Lumber Co. v. C., M. & St. P. Ry. Co.*, 34 I. C. C., 1, a question was presented with respect to the reasonableness of a charge collected by a carrier from a shipper for feeding, watering, and resting a carload of horses in compliance with the 28-hour law, and we there said:

It is the view of the Commission that it has not jurisdiction of the matter in issue. The act of June 29, 1906, known as the 28-hour law, does not vest in this Commission authority to enforce its provisions. It is a penal statute, and the penalty for its violation is explicitly stated. As its title indicates, the law in question was primarily intended to prevent cruelty to animals, a matter which is obviously without our jurisdiction. The Commission possesses only such powers as were conferred upon it by the act to regulate commerce, and nothing in that act requires carriers to rest animals in transit. Furthermore, it was primarily the duty of the owner or shipper of the horses to feed and water them, and the 28-hour law casts that duty upon the carrier only "in case of his (the owner's) default in so doing." It is clear, therefore, that the carrier, in supplying the animals with food, acted as the agent of the shipper.

Upon the facts disclosed and following our decision in the case cited, we find that it is not within our province to determine the issues here presented, and the complaints will be dismissed.

An appropriate order will be entered.

No. 9198.

ANDERSCH BROTHERS ET AL.

v.

CHICAGO & NORTH WESTERN RAILWAY COMPANY
ET AL.

Submitted March 7, 1917. Decided July 12, 1917.

Following *D. Bergman & Co. v. C. & N. W. Ry. Co.*, 37 I. C. C., 71, rates on green salted hides in carloads from St. Paul and Minneapolis, Minn., to Chicago, Ill., and Chicago rate points found to have been unreasonable to the extent that they exceeded the rates contemporaneously in effect from and to the same points on packing-house products, in carloads. Reparation denied.

S. B. Houck for complainants.

A. H. Lossow, W. D. Burr, and H. B. Ramsey for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainants are corporations and partnerships engaged in the hide and fur business at Minneapolis, Minn. By complaint, filed September 18, 1916, they allege that the rate of 20 cents per 100 pounds charged by defendants for the transportation of various carload shipments of green salted hides from St. Paul, Minn., and points taking the same rates to Chicago and grouped points, during the period from May 1, 1910, to February 28, 1916, inclusive, was unreasonable and unduly prejudicial to the extent that it exceeded 16 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds. Some of the shipments are barred by the statute of limitations.

The shipments originated at Minneapolis and St. Paul and moved over defendants' lines to Fond du Lac, Kenosha, Milwaukee, Sheboygan, Sheboygan Falls, and Wauwatosa, Wis., and Chicago and Morris, Ill. Charges were collected thereon at a rate of 20 cents. Prior to July 1, 1914, defendants maintained the same rates on green salted hides as on packing-house products from St. Paul and points taking the same rates, including South St. Paul, Minneapolis, and Minnesota Transfer, to Chicago and grouped points. Effective July 1, 1914, they published a rate of 16 cents on packing-house products from South St. Paul to Chicago and Chicago rate points, and on July 9, 1914, made the same rate applicable also from St. Paul, Minneapolis,

and Minnesota Transfer. No reduction was made in the rate of 20 cents applicable on hides from and to the same points.

In *Bergman & Co. v. C. & N. W. Ry Co.*, 37 I. C. C., 71, the rate on hides from St. Paul and Minneapolis to Chicago and grouped points was attacked as unreasonable to the extent that it exceeded the rate contemporaneously applicable on packing-house products from and to the same points. We there found that the carload rates on hides from St. Paul and Minneapolis to Chicago and points taking the Chicago rates were, and for the future would be, unreasonable to the extent that they exceeded the rates contemporaneously in effect from and to the same points on packing-house products, in carloads, and entered an order accordingly. Effective February 28, 1916, defendants complied with our order by reducing the rate on hides to 16 cents, the same as that in effect on packing-house products from and to the points here in question. Complainants are satisfied with the present rate, and the only question presented is that of reparation, the claim for which is based on our findings in the case cited. Following that case, we find that the rate charged on the shipments moving subsequently to July 1, 1914, was unreasonable to the extent that it exceeded the rate contemporaneously maintained on packing-house products, in carloads, from and to the same points. Complainants, Andersch Brothers and McMillan Fur & Wool Company, were also complainants in the *Bergman Case*, *supra*, and the claim for reparation in this case is based on the decision in the case cited, in which no reparation was asked or awarded. Some time prior to the institution of this proceeding we incorporated our views with respect to cases of this sort into rule 206 (c) and (d) of our conference rulings, to the following effect:

Reparation will not ordinarily be awarded in a formal case attacking a rate as unreasonable or otherwise in violation of law unless intent to claim reparation is specifically disclosed therein, or in an amendment thereto, filed before the submission of said case. The Commission may, however, in the exercise of its discretion, upon good cause shown, and under unusual circumstances, deal specially with a particular claim for reparation.

Claims for reparation based upon a decision of the Commission filed by complainants not parties to the case in which such decision was rendered will not ordinarily be allowed unless reparation was claimed in the complaint upon which such decision of the Commission was based, or was awarded by the Commission. The Commission may, however, in the exercise of its discretion, upon good cause shown, and under unusual circumstances specially consider a particular claim for reparation of this class.

Substantially the same rule has been incorporated in our Rules of Practice. No unusual circumstances are here presented that are sufficient to justify an award of reparation in this case. The complaint will be dismissed.

An appropriate order will be entered.

No. 9386.

TUNIS-COCKEY LUMBER COMPANY

v.

LIVE OAK, PERRY & GULF RAILROAD COMPANY ET AL.

Submitted March 8, 1917. Decided July 10, 1917.

Rate on lumber in carloads from Springdale, Fla., to Wilkinsburg, Pa., found to have been unreasonable to the extent that it exceeded 31 cents per 100 pounds. Reparation awarded.

John R. Walker for complainant.

Edward H. Hart for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is a corporation engaged in the lumber business, with its principal office at Philadelphia, Pa. By complaint, filed December 20, 1916, it alleges that the rate of 32 cents per 100 pounds charged by defendants for the transportation of seven carloads of lumber from Springdale, Fla., to Wilkinsburg, Pa., in September, October, and November, 1915, was unreasonable and unduly prejudicial to the extent that it exceeded 30 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

None of the parties appeared at the hearing, but on the date set therefor complainant and the Atlantic Coast Line Railroad Company, hereinafter called the Coast Line, which states that it is the defendant primarily interested, filed with the Commission a stipulation agreeing upon the facts in the case.

The shipments originated at Springdale, a station in the northern part of Florida, on the Live Oak, Perry & Gulf Railroad, hereinafter called the Perry & Gulf, and moved by way of defendants' lines to Wilkinsburg, a Pittsburgh, Pa., rate point, at a joint rate of 32 cents. The basis of this rate was 5 cents over the rate from Jacksonville, Fla., to Wilkinsburg. After the shipments moved defendants decided to make rates to points in the Buffalo-Pittsburgh group, including Wilkinsburg, from stations on the Perry & Gulf 1 cent higher than the rates from main-line stations in southern Georgia on the Coast Line, this basis having been previously adopted in the publication of rates on lumber from stations on the Perry & Gulf to certain eastern destinations other than those in the Buffalo-Pittsburgh group. The rate to Wilkinsburg from main-line stations on the Coast Line

in southern Georgia was and is 30 cents. On August 1, 1916, a joint rate of 30 cents was established from Springdale to Wilkinsburg, and this rate is still in effect. It is stated that the establishment of this rate, instead of a rate of 31 cents, was due to an error. The 30-cent rate from the main-line stations of the Coast Line in southern Georgia is made by adding to a proportional rate of 17 cents to the Virginia gateways a specific of 13 cents authorized by the lines beyond. It is stated that the carriers from the Virginia gateways propose to increase their specific to 13.5 cents, and that this will result in the establishment of a rate of 30.5 cents to Wilkinsburg from southern Georgia stations on the Coast Line.

The Coast Line admits that the rate charged on the shipments in question was unreasonable to the extent that it exceeded 31 cents and is willing to make reparation accordingly. We are asked, however, not to prescribe a 31-cent rate as a maximum for the future, because the carriers propose to establish a rate of 31.5 cents.

We find that the rate applied was unreasonable to the extent that it exceeded 31 cents per 100 pounds, and that for the future any rate on lumber, in carloads, from Springdale to Wilkinsburg which exceeds by more than 1 cent per 100 pounds the rate contemporaneously maintained on lumber, in carloads, from main-line stations on the Atlantic Coast Line Railroad in southern Georgia will be unreasonable. We further find that complainant made the shipments as described and paid and bore the charges thereon at the rate herein found unreasonable; that it has been damaged to the extent that the charges collected exceeded the charges that would have accrued at the rate herein found reasonable. The exact amount of reparation due can not be determined upon the present record. Complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation.

An appropriate order will be entered.

46 I. C. C.

No. 8744.

AETNA PORTLAND CEMENT COMPANY

v.

**DETROIT, GRAND HAVEN & MILWAUKEE RAILWAY
COMPANY ET AL.**

Submitted September 25, 1916. Decided July 12, 1917.

1. Allegation that charges on carloads of coal from points in Ohio, Kentucky, and West Virginia to Fenton, Mich., were assessed on erroneous weights not sustained.
2. Tariff rule of certain of the defendants providing for the assessment of freight charges on weights ascertained at their regular weighing stations, and that the rule would not be departed from, found to have been unreasonable. Complaint dismissed.

Thomas B. Moore for complainant.

W. N. King for defendants.

W. K. Williams for Detroit, Grand Haven & Milwaukee Railway Company; Grand Trunk Railway Company of Canada; and Grand Trunk Western Railway Company.

H. Q. Wasson for Hocking Valley Railway Company.

L. E. Hinkle for Pennsylvania Company, and Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company.

G. I. Waterhouse for Norfolk & Western Railway Company.

H. M. Griggs for New York Central lines.

C. L. Gardner for Toledo & Ohio Central Railway Company and Zanesville & Western Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of cement, with its principal office at Detroit, Mich., and a plant at Fenton, Mich. By complaint, filed March 21, 1916, it alleges that the defendants' charges on 111 carloads of coal shipped from points in Ohio, Kentucky, and West Virginia to Fenton during the period from November 8, 1913, to August 19, 1914, inclusive, were unreasonable, unjustly discriminatory, and unduly prejudicial to the extent that they exceeded charges based on weights ascertained at destination, and also that the defendants' rules providing that the assessment of charges on coal on weights ascertained at regular weighing stations would not be departed from were and are unreasonable, un-

justly discriminatory, and unduly prejudicial. Reparation is asked. Certain of the shipments were delivered more than two years prior to the filing of the complaint and the claims thereon are barred by the statute of limitations.

Fenton is a local station on the Detroit, Grand Haven & Milwaukee Railway, hereinafter called the Grand Haven. The shipments originated at various points on certain of the defendant lines and moved over various routes to Fenton, where they were delivered by the Grand Haven. The weights on which the charges were assessed were obtained by weighing the shipments on track scales of the originating carriers or at intermediate points. Upon delivery at its plant complainant weighed the shipments on its private track scales, the weights on which the charges were assessed exceeding the weights ascertained on complainant's track scales by from 1,000 pounds to 28,700 pounds per car. No complaint is made against the rate charged. Complainant contends that it was overcharged on the shipments to the extent that the charges collected exceeded charges based on the weights ascertained on its track scales at destination.

The scales on which the shipments were weighed at Fenton were regular track scales of standard make, 80 tons capacity. They were installed some time prior to September, 1904, and were in use until July, 1915. A witness for complainant testified that the Grand Haven was requested to test them whenever it was suspected that they were not weighing correctly. No tests of the accuracy of the scales were made by municipal or state authorities. The scales were swept and cleaned frequently and the pit was cleaned out about twice a year. They were not cared for by a scale expert, and the weighing was done by complainant's packing-house foreman, who balanced the beam of the scales every day. The loaded cars were weighed at destination while at rest and uncoupled at one end. The cars were unloaded soon after being weighed and a record of the scalings was sent to complainant's Detroit office. Complainant paid for the coal contained in the shipments on basis of the billed weights. The delivering carrier was not given an opportunity to reweigh any of the shipments, and no claim was presented to the defendants on the ground of excessive weight until July 15, 1915. No evidence was offered showing the condition of the shipments when they were delivered at Fenton.

The only tests of complainant's scales were those made by the Grand Haven. The records of that carrier show that the scales were tested on September 11, 1913, when the inspector found that the timbers were badly rotted and broken away in several places. The scales were not tested again until July 9, 1915, when, the inspector testified, he found the scale parts worn out, the pivots round

and blunt instead of sharp edged, and the scale bearing broken down so that it rested on the base of the scale, which tended to make the scales weigh light. The scales were condemned and later replaced.

The originating carriers, except the Baltimore & Ohio South-western Railroad, the Chesapeake & Ohio Railway, and the Detroit, Toledo & Ironton Railroad, offered considerable evidence relative to the method of weighing the shipments and the character and condition of the scales on which they were weighed, tending to establish the accuracy of the weights on which the charges were assessed.

We find that the evidence adduced is insufficient to justify us in disregarding the scale weights upon the basis of which the charges assailed were assessed.

When the shipments moved a rule in the tariffs of the Toledo & Ohio Central and Zanesville & Western railways provided that freight charges would be assessed on weights ascertained at the carriers' regular weighing stations and that "this rule will not be departed from." The tariffs of the Norfolk & Western Railway carried a similar rule until March 15, 1914, when the rule was changed to conform to our decision in *Schenck v. N. & W. Ry. Co.*, 29 I. C. C., 125. The Toledo & Ohio Central and Zanesville & Western did not defend the rule in question but stated that it would be changed to conform to our decision in the *Schenck Case*, *supra*, and this was done in a tariff which became effective September 7, 1916. All of the defendants now publish rules substantially in accordance with National Code of Rules Governing Weighing and Reweighing of Carload Freight.

We find that the rule assailed was unreasonable, but as it has been eliminated no order for the future is necessary.

An order dismissing the complaint will be entered.

46 I. C. C.

No. 8691.
BEAUMONT TIMBER COMPANY, LIMITED,
v.
**INTERNATIONAL & GREAT NORTHERN RAILWAY
COMPANY ET AL.**

Submitted June 28, 1916. Decided July 12, 1917.

Rate of 27½ cents per 100 pounds on lumber in carloads from Willow, Tex., to Morris, Okla., found to have been unreasonable and unduly prejudicial. Reparation awarded.

J. M. Simmons for complainant.

L. M. Hogsett for International & Great Northern Railway Company and its receivers.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the lumber business at Zwolle, La. By complaint, filed February 28, 1916, it alleges that the rate of 27½ cents per 100 pounds charged by defendants for the transportation of two carloads of yellow-pine lumber from Willow, Tex., to Okmulgee and Morris, Okla., respectively, was unreasonable and unjustly discriminatory to the extent that it exceeded 24 cents per 100 pounds. Reparation is asked. The claim was presented to the Commission informally February 9, 1916. Rates are stated in cents per 100 pounds.

The shipment to Okmulgee was delivered at destination February 6, 1914, and notice of arrival was given to the consignee on that date. Notwithstanding the fact that the shipment was not unloaded until February 9, 1914, the claim as to it is barred by the statute of limitation. *Navassa Guano Co. v. C., M. & St. P. Ry. Co.*, 39 I. C. C., 171. The shipment to Morris, which was unrouted, was delivered to the International & Great Northern Railway, hereinafter called defendant, February 12, 1914, and moved over its line to Fort Worth, Tex.; Texas & Pacific Railway to Denison, Tex.; Missouri, Oklahoma & Gulf Railway to Henryetta, Okla.; St. Louis & San Francisco Railroad to destination. The two intermediate carriers are not named as parties defendant, but the St. Louis, San Francisco & Texas Railway Company was named as a defendant, and the three carriers so named as defendants form a through route between the points in question. The shipment weighed 39,300 pounds and charges were collected thereon in the sum of \$108.08, based on a joint rate of 27½ cents. Due to an error there was no joint rate in effect by way

of the lines of the defendants named in the complaint at the time the shipment moved. A joint rate of 27½ cents was established by way of those lines on February 23, 1914. Effective December 1, 1914, this rate was reduced to 24 cents over both the route via the lines of defendants named in complaint and via route of movement. The distance from Willow to Morris by way of the lines of the defendants named is 539 miles; over the route of movement, 537 miles.

Willow, a local point on the Fort Worth division of defendant's line, is located in what is known as the southwestern yellow-pine blanket, more particularly described in *Wisconsin & Arkansas Lumber Co. v. St. L., I. M. & S. Ry. Co.*, 33 I. C. C., 33. Originally the blanket rates on lumber to Oklahoma were published by individual lines. Effective September 10, 1908, the 27½-cent rate was reduced to 24 cents in line with a general reduction in the blanket rates on lumber from Texas producing points, except from points on defendant's line, to Oklahoma points. Defendant contends that the rate charged was not unreasonable *per se*; that the subsequent reduction was not voluntary; and that it was due entirely to commercial and competitive conditions over which it had no control. At the time the shipment moved defendant maintained in conjunction with the Chicago, Rock Island & Pacific, Missouri, Kansas & Texas, and Oklahoma Central railways a rate of 24 cents from Willow and contiguous points on its line to points in Oklahoma on the lines of the carriers named, which points are located in the same group as Morris. This rate was and is maintained from points on various other lines in the southwestern blanket to the central Oklahoma group in the vicinity of Morris. It is stated that Willow is nearer the Oklahoma destinations than are the majority of other points in the southwestern blanket. Defendant admitted that lumber mills on its line were entitled to the same consideration with respect to points on the St. Louis & San Francisco that is accorded points on other lines.

We find that the rate assailed was unreasonable and unduly prejudicial to the extent that it exceeded 24 cents per 100 pounds; that complainant made the shipment as described and paid and bore the charges thereon at the rate herein found to have been unreasonable; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued on the basis of the rate herein found reasonable; and that it is entitled to reparation in the sum of \$13.76, with interest. The Texas & Pacific and Missouri, Oklahoma & Gulf railways, although not named as defendants in this proceeding, participated in the movement under the joint rate and may join in the reparation herein awarded. As the 24-cent rate has been in effect for more than two years, no order for the future is necessary.

An appropriate order will be entered.

No. 8743.
ANDERSON-THEOBALD COMPANY
v.
VANDALIA RAILROAD COMPANY ET AL.

Submitted September 10, 1916. Decided July 10, 1917.

Defendants' rates on sand and gravel in carloads from Allison Branch, Ill., to certain points in Indiana found not justified and to certain other points found unreasonable. Reasonable maximum rates prescribed for the future.

James H. Swango for complainant.

O. S. Lewis for Baltimore & Ohio Southwestern Railroad Company.

C. B. Sudborough for Vandalia Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the sand and gravel business, with an office at Vincennes, Ind., and a pit at Allison Branch, Ill. By complaint, filed March 18, 1916, as amended, it alleges that defendants' rates for the transportation of sand and gravel in carloads from Allison Branch to certain points in Indiana on the Vincennes division of the Vandalia Railroad are unreasonable and unjustly discriminatory to the extent that they exceed the rates applicable from Emison, Ind., to the same points of destination. The establishment of reasonable rates for the future is asked. Rates are stated in cents per net ton.

Allison Branch is a local station on the Baltimore & Ohio Southwestern Railroad about 3 miles west of Vincennes. Vincennes is a junction point of the Baltimore & Ohio Southwestern, the Vandalia, and the Chicago & Eastern Illinois Railroad. Emison is a local station on the Chicago & Eastern Illinois, 10.7 miles north of Vincennes. The destination points, with the exception of South Linton and Dugger, are on the main line of the Vincennes division of the Vandalia, which extends from Vincennes to Indianapolis, Ind. Dugger and South Linton are on a branch line of the same division extending from Bushrod to Dugger. Shipments from both Allison Branch and Emison move through Vincennes to the destinations in question, the movement from Allison Branch being interstate, while the movement from Emison is wholly within the state of Indiana.

The average loading of sand from and to the points involved is approximately 100,000 pounds. The rates, with per car earnings, are as follows:

To—	From Allison Branch.			From Emison.		
	Distance.	Rate.	Earnings per car.	Distance.	Rate.	Earnings per car.
	<i>Miles.</i>	<i>Cents.</i>		<i>Miles.</i>	<i>Cents.</i>	
Bruceville.....	12	40	\$20.00	17	35	\$17.50
Bicknell.....	18	40	20.00	23	35	17.50
Edwardsport.....	22	40	20.00	27	35	17.50
Westphalia.....	26	40	20.00	31	40	20.00
Sandborn.....	29	45	22.50	34	45	22.50
Marco.....	33	45	22.50	38	45	22.50
Bee Hunter.....	35	45	22.50	40	45	22.50
Bushrod.....	36	45	22.50	41	45	22.50
Lyons.....	38	50	25.00	43	45	22.50
South Linton.....	41	50	25.00	46	45	22.50
Dugger.....	46	50	25.00	51	45	22.50

It is observed that the rates to Westphalia, Sandborn, Marco, Bee Hunter, and Bushrod are the same from Allison Branch as from Emison, while to Bruceville, Bicknell, Edwardsport, Lyons, South Linton, and Dugger the rate from Allison Branch is 5 cents higher than the rate from Emison. Prior to October 12, 1912, the rate to Bruceville, Bicknell, and Edwardsport was 35 cents, and the burden of showing that the present rate to these points is reasonable rests upon the defendants. To the remaining destination points the rates from Allison Branch are apparently the same or less than those in effect prior to January, 1910.

The evidence shows that complainant is in active competition at points on the Vincennes division of the Vandalia Railroad, principally Bruceville, Bicknell, and Edwardsport, with shippers of sand and gravel at Emison, and that there has been a considerable decrease in shipments from Allison Branch to these points since October 12, 1912.

Defendants insist that the rates assailed are not unreasonable. They observe that these rates are for a two-line haul, and that the haul from Allison Branch to Vincennes includes a branch-line movement from complainant's pit and a bridge haul across the Wabash River. Exhibits filed by defendants indicate that rates ranging from 47 cents, for a distance of 12 miles, to 58 cents, for a distance of 48 miles, are maintained on sand, in carloads, from Allison Branch and other points in Illinois. The per car earnings under these rates, based on a loading of 100,000 pounds, would range from \$23.50 to \$29, as compared with the per car earnings of from \$20 to \$25 yielded for similar distances under the rates assailed. It is admitted, however, that there is not a sufficient difference in conditions sur-

rounding the transportation of sand from Emison and Allison Branch to the destinations involved to warrant a difference in rates. But it is insisted that those rates from Emison, which are lower than from Allison Branch, are abnormally low, and that on several occasions an attempt was made to increase them to the basis applicable from Allison Branch but that the proposed increases were not allowed by the Public Service Commission of Indiana.

We find that the increased rates to Bruceville, Bicknell, and Edwardsport have not been justified; that for the future the reasonable maximum rates to those points will be 35 cents per ton; and that the rates to Lyons, South Linton, and Dugger are, and for the future will be, unreasonable to the extent that they exceed 45 cents per net ton.

An order will be entered accordingly.

DANIELS, *Commissioner*, dissents.

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No. 8654.¹

CROWN CORK & SEAL COMPANY

v.

PENNSYLVANIA RAILROAD COMPANY ET AL.

Submitted October 15, 1916. Decided July 12, 1917.

Rates on bottle openers in less than carloads from Baltimore, Md., to Seattle, Wash., and San Francisco and Los Angeles, Cal., found to have been unreasonable. Reparation awarded.

W. H. Smallwood for complainant.

F. E. Andrews, Robert Dunlap, T. J. Norton, and F. H. Wood for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is a corporation engaged in the manufacture of bottle caps and openers at Baltimore, Md. By complaints, filed February 11, 1916, it alleges that the second-class rates of \$3.20 per 100 pounds charged by defendants for the transportation of five less-than-carload shipments of bottle openers from Baltimore to Seattle, Wash., and San Francisco and Los Angeles, Cal., during the period from September 13, 1913, to September 10, 1914, inclusive, were unreasonable to the extent that they exceeded \$1.75. Reparation is asked and the establishment of reasonable rates for the future. The claims were presented to the Commission informally April 6, 1915. Rates are stated in amounts per 100 pounds.

The shipments consisted of various types of bottle openers used for removing crown caps from bottles. They were packed in wooden boxes and moved over defendants' lines. Charges were collected on basis of the second-class rate of \$3.20, applicable on hardware, n. o. s., prior to November 2, 1913, on which date bottle openers were specifically rated second class. When the shipments moved commodity rates of \$1.90 applied on less-than-carload shipments of cork pullers from and to the points in question. Complainant contends that bottle openers are analogous to cork pullers and that the \$1.90 rates were legally applicable on its shipments. The descriptions in the commodity tariff are specific and a rule therein prohibits the application

¹ The report also embraces No. 8654 (Sub-No. 1), *Same v. Pennsylvania Railroad Company et al.*; No. 8654 (Sub-No. 2), *Same v. Pennsylvania Railroad Company et al.*; and No. 8654 (Sub-No. 3), *Same v. Pennsylvania Railroad Company et al.*

of the rates shown to analogous articles. The class rates were legally applicable to these shipments.

For a number of years prior to April 15, 1913, commodity rates of \$1.75 were applicable to less-than-carload shipments of bottle openers and can openers from and to the points here involved. On that date the rate on bottle openers was canceled, rendering applicable the second-class rate, but the rate on can openers remained unchanged. On September 14, 1914, the \$1.75 rate on can openers was again made applicable to bottle openers and rates on these two articles have since been maintained on a parity. These shipments moved during the interim. The increase on April 15, 1913, in the rate on bottle openers was permitted, as part of the general increase, in *Transcontinental Commodity Rates, West Bound*, 26 I. C. C., 456. In our report in that case bottle openers were not specifically referred to, and we said:

It is manifest, however, from what we have said that we are not justified upon this record in expressing a final affirmative approval of every rate involved in this proceeding.

With the exception of two gross of bar bottle openers, all the openers included in these shipments were invoiced by complainant at prices ranging from 30 cents to \$1.75 per gross. A very large proportion of the shipments, as is generally the case, consisted of small wire or cast-iron openers worth from 30 cents to 50 cents per gross. They weigh from 10 pounds to 12 pounds per gross. The few bar bottle openers shipped were invoiced at \$6 per gross. These are small castings which are permanently attached to supports and their use, compared to that of the other openers above referred to, is extremely limited. Complainant's shipments of bottle openers to the Pacific coast range from 80,000 to 100,000 pounds annually.

Complainant submitted numerous samples of can openers, ranging in value from \$2.40 per gross to \$25 per gross, the production of which requires a more complicated manufacturing process than the bottle openers here involved, and which are, generally speaking, more bulky. It contends that it was unreasonable to charge higher rates on bottle openers than were contemporaneously maintained on can openers, and points to the uninterrupted maintenance of equal rates on the two articles over a long term of years up to the present time, except the comparatively short period from April 15, 1913, to September 14, 1914.

Defendants' evidence is that the commodity rates on can openers were water compelled and that the bulk of the movement thereunder was supposed to be small wire can openers with a ring at one end and a slot in the other, which are frequently attached to cans of fish. It

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was not disputed, however, that the rates apply to can openers such as those submitted by complainant. Defendants contend that the class rates were reasonable on bottle openers and show that the commodity rates thereon were canceled because it was not thought there was sufficient movement to warrant their further maintenance. Neither the volume of movement of can openers nor the extent of the water competition thereon are of record. Defendants stated that bottle openers must have been susceptible to water competition or the commodity rates thereon would not have been restored. They do not show that there were any conditions affecting the transportation of bottle openers existing at the time of the reduction of the rates in 1914 which did not also exist when they were increased in 1913.

We find that the rates assailed were unreasonable to the extent that they exceeded the rates contemporaneously applicable on can openers, in less than carloads, from and to the same points. On this basis we find that complainant was charged an unreasonable rate on each of the shipments set out in the following table; that as to each of said shipments the date of shipment, points of origin and destination, route of movement, weight, charges collected, and the amount of reparation due are as indicated below:

Date.	From Balti- more to—	Route.	Weight (pounds).	Charges collected.	Amount of repara- tion.
May 15, 1914	Los Angeles...	P. R. R.; Pa. Co.; A., T. & S. F. Ry.	1,070	\$34.24	\$15.51
Sept. 13, 1914	Seattle.....	P. R. R.; Pa. Co.; C. M. & St. P. Ry.	106	3.39	1.53
Nov. 22, 1913	San Francisco.	P. R. R.; Pa. Co.; I. C. R. R.; U. P. R. R.;	11,062	353.98	160.39
Sept. 10, 1914		Sou. Pac. Co.			
May 7, 1914	Los Angeles...	P. R. R.; P., C., C. & St. L. Ry.; Van. B. R.; M., K. & T. Ry.; M., K. & T. Ry. of Tex.; G., H. & S. A. Ry.; and Sou. Pac. Co.	2,831	90.59	41.05

We further find that complainant made the shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rates herein found reasonable; and that it is entitled to awards of reparation as follows: Pennsylvania Railroad Company, Pennsylvania Company, and Atchison, Topeka & Santa Fe Railway Company in the sum of \$15.51, with interest; Pennsylvania Railroad Company, Pennsylvania Company, and Chicago, Milwaukee & St. Paul Railway Company in the sum of \$1.53, with interest; Pennsylvania Railroad Company, Pennsylvania Company, Illinois Central Railroad Company, Union Pacific Railroad Company, and Southern Pacific Company in the sum of \$160.39, with interest; and Pennsylvania Railroad Company, Pittsburgh, Cincinnati, Chicago & St.

Louis Railway Company, Vandalia Railroad Company, Missouri, Kansas & Texas Railway Company, Missouri, Kansas & Texas Railway Company of Texas, Galveston, Harrisburg & San Antonio Railway Company, and Southern Pacific Company in the sum of \$41.05, with interest.

An order awarding reparation will be entered, but as the rates on bottle openers have been maintained on a parity with the rates on can openers for more than two years subsequent to the movement of the shipments in issue, no order for the future is necessary.

No. 8879.

STANDARD OIL COMPANY (KENTUCKY)

v.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
ET AL.

FOURTH SECTION APPLICATIONS Nos. 1912, 2043, 2045.

Submitted October 10, 1916. Decided July 10, 1917.

1. Rate on petroleum refined oil in tank-car loads from North Baton Rouge, La., to Tylertown, Miss., found to have been unreasonable. Reparation awarded.
2. Fourth section relief denied.

Charles Van Overbeke for complainant.

J. L. Durrett for Yazoo & Mississippi Valley Railroad Company and Illinois Central Railroad Company.

G. H. McElroy for Fernwood & Gulf Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the marketing of petroleum and petroleum products, at Louisville, Ky. By complaint, filed May 18, 1916, it alleges that the rate of 45 cents per 100 pounds charged by defendants on three tank-car loads of petroleum refined oil, shipped from North Baton Rouge, La., to Tylertown, Miss., January 22, 1915, and May 3 and 4, 1915, was unreasonable to the extent that it exceeded 25 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipments, aggregating 139,114 pounds, were delivered to the Yazoo & Mississippi Valley Railroad, hereinafter called the Yazoo, routed over that line to New Orleans, La., and the Illinois Central and Fernwood & Gulf railroads beyond. They moved over the Yazoo to Hammond, La., and the Illinois Central and Fernwood & Gulf, through Fernwood, Miss., to destination. The distance by way of New Orleans is 213 miles; over the route of movement, 116 miles. The rate legally applicable over the route of movement was a combination rate of 46 cents, composed of fifth-class rates of 28 cents to Fernwood and 18 cents beyond, governed by the southern classification. As these shipments were routed through New Orleans over which route there were applicable fifth-class rates of 15 cents to New Orleans and 30 cents beyond, charges were collected in the sum of \$626.01 at the combination rate of 45 cents. The shipments were accordingly undercharged 1 cent per 100 pounds; but as they were misrouted and the rate over the route specified by the shipper was 1 cent less than over the route of movement, authority is hereby given to waive collection of the outstanding undercharge. The amount by which the charges which would have accrued at the rate legally applicable by way of Hammond exceeded those which would have accrued had the shipments moved by way of New Orleans should be borne solely by the Yazoo, the carrier responsible for the misrouting.

The rate charged over the route of movement yielded earnings of 7.76 cents per ton-mile. At the time these shipments moved, by an exception to the southern classification, a sixth-class rate of 25 cents applied on coal oil and its products in cans, boxed, from New Orleans to Tylertown, over the Illinois Central to McComb, Miss., and the Liberty White Railroad beyond, a distance of 131 miles. The rate on petroleum products in tank cars was 30 cents. The Liberty White Railroad is not a party defendant. The complainant showed that, with but few exceptions, the rates on petroleum and petroleum products from North Baton Rouge to all points in the south and southeast are maintained on a parity with the rates from New Orleans; and that the southern classification prescribes the same rating on petroleum and its products, whether in barrels; cans, boxed; drums; or tank cars. It contends that the 25-cent rate referred to is a proper measure of the reasonableness of the rates assailed. It appears that these were the first carload shipments of petroleum from North Baton Rouge to Tylertown, but that there probably will be a small carload movement between these points in the future.

Defendants corroborated complainant's evidence and concurred in its contentions. They stated that the usual basis for commodity

rates or exceptions to the southern classification on petroleum and its products in this territory is sixth class. The sixth-class rate from New Orleans to Tylertown over the Illinois Central and the Fernwood & Gulf was and is 25 cents. On September 1, 1915, defendants established a commodity rate of 25 cents on petroleum and its products in carloads, in tank cars, from both New Orleans and North Baton Rouge to Tylertown, and this rate is still in effect. Defendants expressed willingness to make the reparation asked.

The mere fact that there was a 25-cent rate on coal oil in cans, boxed, from New Orleans to Tylertown over the Illinois Central and the Liberty White is not sufficient to support an award of reparation down to that basis.

We find that the rate charged on the shipments in question was unreasonable to the extent that it exceeded the rate of 30 cents per 100 pounds contemporaneously applicable on the traffic in question from New Orleans to Tylertown by way of the Illinois Central and the Fernwood & Gulf; that complainant made the shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rate herein found reasonable; and that it is entitled to reparation in the sum of \$208.67, with interest. As a rate lower than that found reasonable has been in effect for more than a year no order for the future is necessary.

Those portions of Fourth Section Applications Nos. 1912, 2043, and 2045, by which authority is sought to continue to charge for the transportation of petroleum refined oil, in tank cars, from North Baton Rouge to Tylertown, rates which are lower than the rates contemporaneously maintained on like traffic from or to intermediate points, were heard with the complaint. Defendants offered no justification for the higher intermediate rates and the applications will be denied to the extent that they are involved.

Appropriate orders will be entered.

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No. 8279.

HERRICK REFRIGERATOR & COLD STORAGE COMPANY
v.
CHICAGO GREAT WESTERN RAILROAD COMPANY
ET AL.

PORTION OF FOURTH SECTION APPLICATION No. 1613.

Submitted December 14, 1915. Decided July 11, 1917.

1. Joint rate on refrigerators in carloads from Waterloo, Iowa, to Memphis, Tenn., found to have been and to be unreasonable to the extent that it exceeded or may exceed the aggregate of the intermediate rates subject to the act contemporaneously in effect to and from Des Moines, Iowa. Reparation awarded.
2. Rating and rates applicable to refrigerators, wrapped, in less than carloads, from Waterloo to St. Joseph, Mo., Afton, Okla., and Marshall, Tex., and from Kansas City, Mo., to Beloit, Kans., found justified.
3. Fourth section relief denied.

G. Wrightman for complainant.

F. S. Hollands and *R. C. Fyfe* for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainant is a corporation engaged in the manufacture and sale of refrigerators, with its principal place of business at Waterloo, Iowa. By complaint, filed August 30, 1915, as amended, it alleges that the rate charged for the transportation of a carload of household refrigerators from Waterloo to Memphis, Tenn., was unreasonable and in violation of the fourth section of the act in that it exceeded the aggregate of the intermediate rates to and from Des Moines, Iowa; and that the first-class rates charged for the transportation of various less-than-carload shipments of set-up household refrigerators from Waterloo to St. Joseph, Mo., Afton, Okla., and Marshall, Tex., and from Kansas City, Mo., to Beloit, Kans., between March 24 and June 2, 1915, inclusive, were unreasonable to the extent that they exceeded the second-class rates. Reparation is asked and the establishment of reasonable rates and ratings for the future. Rates are stated in cents per 100 pounds.

The shipment to Memphis, March 8, 1915, moved: Chicago Great Western Railroad to Kansas City; St. Louis & San Francisco Railroad to I. C. C.

road, hereinafter called the Frisco, thence to destination. Charges were collected on basis of a joint commodity rate of 52.9 cents, legally applicable. The intermediate rates contemporaneously in effect to and from Des Moines over the route traversed were a fourth-class rate of 12.3 cents from Waterloo to Des Moines and a fourth-class rate of 34 cents, governed by the western classification, from Des Moines to Memphis, aggregating 46.3 cents. The minimum weight was in all cases the same. That portion of Fourth Section Application No. 1618, filed by A. D. Hall, agent, in which authority is sought to continue to charge for the transportation of refrigerators from Waterloo to Memphis greater compensation as a through rate than the aggregate of intermediate rates to and from Des Moines or other intermediate points, was heard with the complaint.

Defendants offered no evidence in justification of the joint rate assailed. The Chicago Great Western observes that by express tariff provisions the Iowa factor above referred to is not to be used either by itself or in combination in preference to a specific class or commodity rate. The tariffs naming these rates, however, are on file with the Commission, and in the absence of a joint rate the combination would be legally applicable. We have heretofore held that a joint rate that exceeds the aggregate of the intermediate rates, subject to the act, between the same points over the same route is *prima facie* unreasonable. *Lindsay Brothers v. B. & O. S. W. R. R. Co.*, 16 I. C. C., 6; *Lafayette Chamber of Commerce v. L. W. R. R. Co.*, 41 I. C. C., 297.

The less-than-carload shipments consisted of household refrigerators, wrapped, and charges thereon were collected on basis of the first-class rates, legally applicable, except on the shipment to Beloit, on which charges were collected on basis of one and one-half times first class, or 84 cents. The first-class rate legally applicable thereto was 56 cents, and the shipment was accordingly overcharged. The record shows that complainant did not bear the freight charges on any of these shipments. They were borne by the consignees, and the overcharge in question should therefore be refunded to the consignee properly entitled thereto.

Complainant contends that the rates charged were unreasonable to the extent that they exceeded the second-class rates applicable to refrigerators, crated.

Prior to February 14, 1913, the western classification, which governs, rated refrigerators, less than carload, n. o. s., second class, without reference to the manner of packing. Effective February 14, 1913, western classification No. 51 rated refrigerators, n. o. i. b. n., "in crates or wrapped," less than carload, second class. Effective May 15, 1914, in supplement No. 5 to western classification No. 52,

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the word "wrapped" was eliminated, and the second-class rating was restricted to refrigerators "in boxes or crates." Effective July 15, 1915, in supplement No. 6 to western classification No. 53 the provision for shipping refrigerators, wrapped, was again restored, but at the first-class rating. Complainant's shipments are wrapped in heavy manila paper and bound by four bands of rope, with an excelsior bumper under each band at the corners. No burlap or other packing is used. Complainant avers that this method of packing has proven more satisfactory to it than crating and has resulted in less damage in transit. It admits, however, that there are certain kinds of refrigerators, such as those with glass doors, which it would not ship without crating. Defendants insist that the wrapping does not afford sufficient protection. The chairman of the Western Classification Committee testified that when refrigerators so packed come in contact with another article in the car which has a protruding end, such as a bolt, bar of iron, or plow, the constant wear will puncture the paper wrapping, which affords very little protection, and that there have been numerous claims for damage to refrigerators resulting from gouging or chafing. He further testified that at a meeting of the classification committee at Chicago, Ill., in March, 1914, at which 80 per cent of the refrigerator manufacturers in the United States were represented, it was agreed that the wrapping of refrigerators was an undesirable method of packing and should be discontinued. Also, that the only complaint filed with the committee against such elimination was one by complainant in May, 1915, asking that the second-class rating be again restored on refrigerators, wrapped. He added that the committee was unwilling to do this, but, being then under the impression that burlap was used for wrapping, the committee deemed it reasonable to provide, and in supplement No. 6 to classification No. 53 did provide, for the shipment of refrigerators, wrapped, at first-class rates.

The official and southern classifications now rate refrigerators, s. u., n. o. i. b. n., wrapped, less than carloads, first class; "in boxes or crates," second class.

We find that the rating and rates applicable on the less-than-carload shipments have been justified. We further find that the rate charged on the carload shipment to Memphis was, is, and for the future will be unreasonable to the extent that it exceeded or may exceed the aggregate of intermediate rates subject to the act contemporaneously in effect to and from Des Moines; that complainant made the shipment as described and paid and bore the charges thereon at the rate herein found to have been and to be unreasonable; that it has been damaged to the extent of the difference between

the charges paid and the charges which would have accrued on basis of the rate herein found reasonable; and that it is entitled to reparation, with interest. The amount of reparation due can not be determined on this record, and complainant should prepare a statement showing the details of the shipment in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider entering an order awarding reparation. The fourth section application will be denied to the extent that it is involved.

An appropriate order will be entered.

No. 8921.

BAYWAY CHEMICAL COMPANY

v.

CENTRAL RAILROAD COMPANY OF NEW JERSEY ET AL.

Submitted December 16, 1916. Decided July 11, 1917.

Demurrage and track storage charges at the Atlantic terminal of the New York Dock Company in New York harbor, N. Y., on a carload of heavy naphtha, in drums, shipped from Bayway, N. J., found to have been properly assessed and not shown to have been unreasonable. Complaint dismissed.

George W. Jackson for complainant.

Charles E. Miller and *Jackson E. Reynolds* for Central Railroad Company of New Jersey.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of chemicals and the handling of their by-products at Bayway, N. J. By complaint, filed May 19, 1916, it alleges that demurrage and track storage charges assessed at the Atlantic terminal of the New York Dock Company in New York harbor, N. Y., on a carload of heavy naphtha, in drums, shipped from Bayway in April, 1915, were unreasonable. Reparation is asked.

The 39 drums of heavy naphtha were part of a shipment of 40 drums made by complainant under one bill of lading from Bayway, consigned to itself care Bush Terminal Warehouse, Bush terminal, Brooklyn. The other drum moved as a follow lot and is not involved

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herein. Prior to the arrival of the naphtha at Bush terminal by car float May 4, 1915, complainant requested the Bush Terminal Company, hereinafter called the Bush Company, to store it in its warehouse, but was advised by that company that this could not be done under the rules of the New York Fire Insurance Exchange. By letter, dated May 7, 1915, complainant advised the Bush Company that it had arranged for the storage of this shipment at Erie Basin, and requested that company to see that it was reconsigned to Beard's Erie Basin Stores. The shipment was car floated by the Central Railroad of New Jersey from Bush terminal on May 10, 1915, to Jersey City, consigned to complainant, care Beard's Erie Basin Stores, and was delivered to the Atlantic terminal, Brooklyn, May 20, 1915. The Bush terminal, Erie Basin, and the Atlantic terminal are on the Brooklyn shore of New York harbor. Erie Basin is between the Bush and Atlantic terminals, and is less than a mile distant from each. The Bush and Atlantic terminals are shown in the tariffs as termini of the Central Railroad of New Jersey. On May 20, 1915, the New York Dock Company mailed to the complainant, care of Beard's Erie Basin Stores, a notice of arrival of the car at Atlantic terminal and the record shows that the contents of this notice were communicated to complainant by telephone on May 21, 1915. On June 11, 1915, the New York Dock Company requested disposition instructions, but received none. On July 7, 1915, complainant, through its agent, the New York & New Jersey Steamboat Company, lightered the shipment to Erie Basin. Neither the charges for the movement to Bush terminal nor for the movement from Bush terminal to Atlantic terminal, which latter charge complainant has not paid, are involved in this proceeding. Demurrage in the sum of \$37 and track storage charges in the sum of \$72 were paid by complainant for the detention at Atlantic terminal.

The bill of lading described the commodity as "heavy naphtha." Naphtha is a generic term referring to petroleum distillates that are heavier than gasoline and lighter than kerosene, and complainant and defendants stipulated that it might be said to include refined, crude, and heavy naphtha.

It appears that when complainant instructed that this car be sent from Bush terminal to Erie Basin it was under the impression that this movement would be performed by lighter at a charge of \$6. However, the lighterage and terminal tariff of the Central Railroad of New Jersey provided and provides that it would not and will not lighter or allow lighterage on certain restricted articles, including naphtha and crude naphtha, and the shipment, therefore, could not have been lightered by it. A minimum charge of \$54 per car applied for car floatage in New York harbor, but it is not shown

that the Erie Basin was provided with facilities for receiving cars by car float and, in any event, the tariff of the Central Railroad of New Jersey states, under the head of "car-float service on articles not 'lighterage free,'" that "freight must not be contracted for including floatage delivery. Arrangements for floatage delivery must be made with the Central Railroad Company of New Jersey after arrival of the property at rail termini in New York harbor." The tariffs also provided that naphtha could not be handled at Atlantic terminal, and that demurrage and track storage charges collected as a result of railroad errors which prevent proper tender or delivery would be promptly canceled or refunded.

It is our opinion that, so far as the demurrage and track storage charges are concerned, it is immaterial that the shipment was held at Atlantic terminal where, under the tariffs, this commodity could not be handled. The Central Railroad of New Jersey, under its tariffs, apparently could not have delivered the shipment at Erie Basin, and it therefore held it at one of its terminals near that point while endeavoring to get disposition orders from complainant. Complainant had actual and prompt notice of the detention of the shipment at this point, where it finally accepted delivery.

We find that the detention of the shipment was not caused by railroad errors which prevented proper tender or delivery; that the demurrage and track storage charges assailed were properly assessed; and that they are not shown to have been unreasonable. The complaint must be dismissed, and an order will be entered accordingly.

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No. 8781.

HOPKINS, HOUGH & MERRILL COMPANY

v.

**DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY ET AL.**

Submitted September 9, 1916. Decided July 10, 1917.

Rates on anthracite coal in carloads to Branchville, N. J., from Taylor, Tamaqua, Nesquehoning, and other points in Pennsylvania on the Lehigh & New England Railroad found to have been and to be unreasonable. Reparation awarded.

William A. Dolan for complainant.

Douglas Swift for Delaware, Lackawanna & Western Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the coal business at Branchville, N. J. By complaint, filed April 7, 1916, as amended, it alleges that defendants' rates on anthracite coal, in carloads, to Branchville, N. J., from Taylor, Tamaqua, Nesquehoning, and other points in Pennsylvania on the Lehigh & New England Railroad are unreasonable and unjustly discriminatory. Reparation is asked on shipments from Tamaqua and Nesquehoning, delivered at Branchville during the period from January 14, 1914, to June 16, 1916, inclusive. The claim was presented to the Commission informally November 16, 1915. Rates are stated in amounts per long ton, except as otherwise noted.

The shipments, 34 of which originated at Tamaqua and 1 at Nesquehoning, moved by way of the Lehigh & New England to Augusta, N. J., and the Delaware, Lackawanna & Western Railroad beyond. It appears that on 17 of the shipments, delivered during the period from January 14, 1914, to March 30, 1915, inclusive, charges were collected at a combination rate of \$2.16: \$1.60 to Augusta, and 2.5 cents per 100 pounds, equivalent to 56 cents per long ton, beyond; and that on the remaining shipments, delivered during the period from March 30, 1915, to June 16, 1916, inclusive, charges were collected, with one exception, at a combination rate of \$2.18: \$1.60 to Augusta, and 2.6 cents per 100 pounds, equivalent to 58 cents per long ton, beyond. Charges were collected on the ex-

cepted shipment at a rate of \$2.20, the basis for which is not shown. Apparently 18 of the shipments consisted of chestnut and stove coal, known as prepared sizes, and the remainder of pea coal. During the period from January 14, 1914, to February 23, 1915, inclusive, the rate legally applicable on prepared sizes was \$2.16: \$1.60 to Augusta and 2.5 cents per 100 pounds beyond; and on pea coal, \$2.01: \$1.45 to Augusta, and 2.5 cents per 100 pounds beyond. During the period from February 23, 1915, to April 1, 1916, inclusive, the rate legally applicable on prepared sizes was \$2.18: \$1.60 to Augusta, and 2.6 cents per 100 pounds beyond; and on pea coal, \$2.03: \$1.45 to Augusta and 2.6 cents per 100 pounds beyond. Effective February 23, 1915, the component from Augusta to Branchville was increased 5 per cent. On April 1, 1916, the components to Augusta were reduced to \$1.45 on prepared sizes and to \$1.35 on pea coal. *Rates for Transportation of Anthracite Coal*, 35 I. C. C., 220. These rates are still in effect. Apparently some of the shipments of prepared sizes were overcharged 15 cents per ton, and all of the shipments of pea coal, from 13 cents to 25 cents per ton.

The average distance from the points of origin to Augusta is approximately 88 miles; Branchville is 1.7 miles beyond Augusta. The rates for a short haul may well be proportionately higher than for a long haul, but where, as in this case, the rates for less than 2 miles over one line are more than one-third of the rates for 88 miles over the originating line, the other line of a two-line haul, the disparity could be warranted only under unusual circumstances and conditions not here present.

Defendants admit that the rates assailed were unreasonable to the extent that they exceeded \$1.65 on prepared sizes and \$1.55 on pea coal. They express willingness to establish joint rates in those amounts and to make reparation on that basis, which is satisfactory to complainant.

We find that the rates assailed were, are, and for the future will be unreasonable to the extent that they exceeded or may exceed rates of \$1.65 per long ton on prepared sizes of anthracite coal in carloads and of \$1.55 per long ton on pea size in carloads. We further find that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rates herein found reasonable; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined on this record and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted

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to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. The overcharges collected should be included in the statement to be submitted.

An appropriate order will be entered.

No. 8881.

J. V. STIMSON

v.

SOUTHERN RAILWAY COMPANY ET AL.

PORTION OF FOURTH SECTION APPLICATION No. 1548.

Submitted October 11, 1916. Decided July 11, 1917.

1. Rates on lumber and other forest products from Huntingburg, Ind., to various points in Illinois, Michigan, and Wisconsin, not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.
2. Defendant Southern Railway Company authorized to charge lower rates from Evansville to certain destinations than from Huntingburg and other intermediate points.

R. B. Coapstick for complainant.

Claudian B. Northrop and *A. M. Bull* for Southern Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a manufacturer of lumber and other forest products, with his principal office at Huntingburg, Ind. By complaint, filed October 9, 1915, as amended, he alleges that the rates charged by defendants for the transportation of lumber and other forest products from Huntingburg to various destinations in Illinois, Michigan, and Wisconsin were and are unreasonable and unjustly discriminatory and in violation of the long-and-short-haul rule of the fourth section, in that they exceeded and exceed the rates contemporaneously maintained from Cannelton, Troy, Tell City, Rockport, and Rockhill, Ind., hereinafter called the Rockport group, and from Evansville, Ind., farther distant points. Reparation is asked. There was

set for hearing with this complaint that portion of Fourth Section Application No. 1548, filed by the Southern Railway Company, in which authority is sought to continue to charge on lumber and forest products from Rockport, Rockhill, Troy, Tell City, and Cannelton, to points in Illinois, Michigan, and Wisconsin, rates which are lower than the rates contemporaneously maintained on like traffic from Huntingburg and other intermediate points to the same points of destination. Rates are stated in cents per 100 pounds.

Huntingburg is located in southern Indiana on the line of the Southern Railway extending from New Albany, Ind., to East Mount Carmel, Ind., with branches from Evansville through Lincoln City to Huntingburg; from Rockport to Rockport Junction, just south of Lincoln City; and from Cannelton through Troy and Tell City to Lincoln City. These branch-line points are situated on the Ohio River and, with the exception of Evansville, are local to the Southern. Evansville is also served by the Illinois Central, Louisville & Nashville, and the Chicago & Eastern Illinois railroads, and Louisville, Henderson & St. Louis and Cleveland, Cincinnati, Chicago & St. Louis railways. It is reached from the south by the Louisville & Nashville, the Illinois Central, and the Louisville, Henderson & St. Louis. The rates assailed, together with the earnings thereunder, are shown in the following table, the destinations used therein being representative, and the rates sought, which are also shown, being the same as those at present maintained from Evansville and the Rockport group:

From Huntingburg to—	Distance.	Rate charged.	Earnings.			Rate sought.
			Per car. ¹	Per car-mile. ¹	Per ton-mile.	
	<i>Miles.</i>	<i>Cents.</i>		<i>Cents.</i>	<i>Mills.</i>	<i>Cents.</i>
Belvidere, Ill.....	376	12	\$61.58	16.4	6.38	10.5
Chicago, Ill.....	298	12	61.58	20.6	8.06	10.5
Grand Rapids, Mich.....	407	13.5	69.27	17.0	6.63	12.6
Detroit, Mich.....	445	14	71.84	16.1	6.29	12.6
Milwaukee, Wis.....	383	15	76.97	20.0	7.88	13.7

¹ Based on 51,314 pounds, the average loading of the shipments.

In 1905 the Chicago & Eastern Illinois, the short line, applied its proportional of 10 cents as a local rate from Evansville to Chicago. A similar reduction by other lines from Evansville and other Ohio River crossings followed. To avoid fourth section violations the direct lines leading from the Ohio River crossings applied these reduced rates from intermediate points. The usual basis for lumber in central freight association territory is and long has been sixth class. The Southern continued this basis from its local stations except where a readjustment was necessitated by the Ohio River rates.

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It was testified that there was a large movement of logs by river to Evansville and New Albany, which passed by Rockport; and that the same rates were published from Rockport as from Evansville as a competitive measure and to enable the Southern to handle through Rockport some of the business which was going to Evansville and New Albany. The only points from which the Southern maintains rates the same as from Evansville are those located on the Ohio River or junction points with north and south lines leading from the Ohio River which carry those rates as maxima.

The evidence does not substantiate the allegation that the rates from Huntingburg are unreasonable *per se*. This is emphasized by a comparison with other rates in the same territory. In *Stimson v. Southern Ry. Co.*, 40 I. C. C., 169, we found a rate of 10 cents for the interstate transportation of lumber from Huntingburg to Shelbyville, Ind., not unreasonable or unjustly discriminatory.

It appears that the conditions which brought about the reduction in the rates from the Rockport group no longer exist, there being at present no appreciable movement by water. The fourth section departure with respect to the Rockport group has been removed by an increase in the rates from those points to 2 cents over Evansville. This action was approved by us in *Lumber from Indiana Stations*, 43 I. C. C., 117. The rates from Evansville still constitute a fourth section departure. The complainant meets competition at Evansville, which is a city of manufacturing importance. As heretofore stated, Evansville is served by six railroads, but to and from this point in the majority of instances the line of the Southern is more than 15 per cent longer than the direct line. It is apparent that, so far as that carrier is concerned, its rates from Evansville are compelled by conditions beyond its control, and any increase therein would merely operate to its exclusion from that business without benefiting complainant. Relief from the provisions of the fourth section will be authorized in those instances where the distance from Evansville to the points of destination in question, by way of the Southern Railway, exceed the short-line distance between the same points by 15 per cent or more.

We find that the rates assailed are not shown to have been or to be unreasonable or unduly prejudicial. The complaint will be dismissed.

Appropriate orders will be entered.

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No. 7630.

JOBBER & MANUFACTURERS BUREAU OF THE CHAM-
BER OF COMMERCE OF HUNTINGTON, W. VA.,
v.
CHESAPEAKE & OHIO RAILWAY COMPANY ET AL.

Submitted June 25, 1915. Decided July 11, 1917.

Class rates maintained by defendants from Huntington, W. Va., to main-line and branch-line points on the Norfolk & Western Railway between Matewan, W. Va., and Salem, Va., both inclusive, found to be unduly prejudicial to Huntington to the extent that they exceed the respective class rates contemporaneously applied from Portsmouth, Ohio, to the same destinations.

John S. Burchmore, Luther M. Walter, and W. P. Tingley for complainant.

R. Walton Moore and Charles D. Drayton for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a voluntary association of shippers and receivers of freight at Huntington, W. Va. By complaint, filed December 23, 1914, it alleges that the class rates maintained by defendants from Huntington to main-line and branch-line points on the Norfolk & Western Railway, hereinafter called the Norfolk & Western, in West Virginia, Kentucky, and Virginia, from Buffalo Creek, W. Va., to Salem, Va., both inclusive, are unreasonable, unduly prejudicial, and discriminatory as compared with rates from Cincinnati, Columbus, Portsmouth, and Ironton, Ohio, to the same destinations. The establishment of reasonable and nonprejudicial rates is asked.

From Buffalo Creek to Sprigg, W. Va., both inclusive, the haul from Huntington is intrastate, and the rates from Huntington to those points are not subject to our jurisdiction. The line of defendant Norfolk & Western crosses the West Virginia-Kentucky state line immediately west of Matewan, W. Va., and the haul from Huntington to Matewan and points east thereof is interstate.

Huntington, with approximately 50,000 inhabitants, is located on the main line of the Chesapeake & Ohio Railway, hereinafter called the Chesapeake & Ohio, and on the Ohio River division of the Baltimore & Ohio Railroad, hereinafter called the Baltimore & Ohio, about 8 miles east of Kenova, W. Va., at which point the two lines

connect with the main line of the Norfolk & Western. Both Huntington and Kenova are on the Ohio River. The various towns on the line of the Norfolk & Western, particularly those between Matewan and Bluefield, W. Va., draw supplies, such as groceries, dry goods, furniture, and hardware, from Pittsburgh, Pa., Ashland, Ky., Cincinnati, Columbus, Portsmouth, Ironton, and Huntington. The traffic from Huntington to the destinations involved is mainly less than carload and moves in daily merchandise cars either by way of the Chesapeake & Ohio or the Baltimore & Ohio to Kenova, where it is transferred by the Norfolk & Western into other cars for distribution. Rates are hereinafter stated in cents per 100 pounds.

As there are few commodity rates from Huntington to the Norfolk & Western stations, practically all the traffic moves at class rates. Joint class rates to those stations are constructed by adding to the Virginia cities rates the class differentials of 12, 10, 8, 7, 6, and 5 cents, respectively, but their application is subject to lower combinations on Kenova and to certain class-rate distance scales which are observed as maxima. The result is that practically all the rates which apply to that intermediate territory, except to points near Roanoke, are the combinations on Kenova, as they are lower than the rates constructed on the differential basis.

While the complaint was drawn with reference to the rates in effect prior to the increases which followed *The Five Per Cent Case*, 31 I. C. C., 351, the case will, in view of the relief prayed, be disposed of as if the increased rates had then been effective.

Of the combinations on Kenova the factors thereto, applicable over both lines from Huntington, are the class rates of 7.4, 7.4, 6.8, 5.3, 4.2, and 3.2 cents, respectively. The class rates from Huntington, Cincinnati, Columbus, Portsmouth, Ironton, and Kenova to the destinations in question are far too numerous to be set forth here, but for purposes of comparison the following rates to Matewan, Bluefield, Elliston, and Salem, main-line points, may be taken as illustrative:

	Miles.	1	2	3	4	5	6
From Huntington to—							
Matewan	114.3	53.6	47.3	38.9	27.4	21.0	16.9
Bluefield	212.3	62.0	55.6	43.1	30.5	24.2	19.0
Elliston	288.3	69.7	59.6	45.4	32.3	27.3	22.3
Salem	310.3	57.7	49.6	37.4	25.3	21.3	17.3
From Kenova to—							
Matewan	107	46.2	39.9	32.6	22.1	16.8	12.7
Bluefield	205	54.6	46.2	36.8	25.2	20.0	15.8
Elliston	291	65.1	53.6	42.0	30.5	25.2	21.0
Salem	303	57.7	49.6	37.4	25.3	21.3	17.3
From Ironton to—							
Matewan	119	48.3	41.0	33.6	23.1	17.9	14.7
Bluefield	217	55.7	47.3	37.3	25.2	21.0	16.8
Elliston	303	67.2	54.6	42.0	31.5	26.3	21.0
Salem	315	57.7	49.6	37.4	25.3	21.3	17.3

	Miles.	1	2	3	4	5	6
From Portsmouth to—							
Matewan.....	146	51.5	44.1	34.7	24.2	18.9	14.7
Bluefield.....	244	57.7	49.4	37.4	25.3	21.3	17.3
Elliston.....	330	69.3	56.7	43.1	32.3	27.3	22.1
Salem.....	342	57.7	49.6	37.4	25.3	21.3	17.3
From Columbus to—							
Matewan.....	246	57.7	49.4	37.4	25.3	21.3	17.3
Bluefield ¹	344	57.7	49.6	37.4	25.3	21.3	17.3
Elliston ²	430	69.7	59.6	45.4	32.3	27.3	22.3
Salem.....	442	57.7	49.6	37.4	25.3	21.3	17.3
From Cincinnati to—							
Matewan.....	253	60.9	50.4	39.9	28.4	23.1	18.9
Bluefield ³	351	65.6	55.4	42.7	29.0	24.4	19.9
Elliston ⁴	437	77.6	63.0	47.3	36.0	30.4	24.9
Salem.....	449	65.6	55.4	42.7	29.0	24.4	19.9

¹ Rates blanketed from Thacker, first agency station east of Matewan, to Bluefield, 83 miles.

² Rates blanketed from Parrott to Pierpont, 43 miles.

³ Rates blanketed from West Vivian to Bluefield, 26 miles.

⁴ Rates blanketed from Barton to Pierpont, 46 miles.

Elliston is the first agency station west of Salem, and in that connection it should be explained, although that rate relationship is not here involved, that the respective rates from the several points of origin to the Virginia cities and to Salem, the latter being about 7 miles west of Roanoke, are lower than the rates to many intermediate points, particularly those east of Bluefield.

Although the hauls from the contrasted points of origin, with the exception of Kenova, are greater than the hauls from Huntington, the rates from the latter are on a substantially higher basis. To avoid extended tables and discussion it may be said that to the branch-line points the rates from Huntington do not actually exceed those from Cincinnati or Columbus, but, distances considered, are relatively higher.

The class rates from Portsmouth to the destinations in question are also applied by the Norfolk & Western from Ashland, Ky. Ashland is located on the south side of the Ohio River, off the line of the Norfolk & Western, and traffic from that point is ferried across the river by that carrier to Coal Grove, Ohio, where it is hauled up an incline to the Norfolk & Western tracks. Coal Grove is 31 miles south of Portsmouth and 8 miles north of Kenova. To the various destinations, therefore, the hauls from Huntington and Ashland are substantially equal.

Complainant contends that Huntington should have the benefit of the substantial differences in distances which exist in its favor as against Cincinnati and Columbus.

Several jobbers and manufacturers, members of complainant, located at Huntington and engaged in various lines of trade such as the grocery, furniture, and hardware business, testified respecting shipments made by them, principally less than carload. They testify that, because of keen competition from Cincinnati, Columbus, Pittsburgh, Portsmouth, Ironton, and Ashland and because of the favor-

able freight rates enjoyed by these points of origin as compared with the rates from Huntington to the same territory, they find it difficult to hold their trade and practically impossible to do any business east of Bluefield. Complainant also compares the rates assailed with relatively lower rates maintained by the Baltimore & Ohio, the Chesapeake & Ohio, and the Coal & Coke Railway for similar distances.

The principal evidence introduced by the Norfolk & Western, which bore the burden of the defense, by way of explanation and justification of the rate adjustment, is substantially as follows: That Cincinnati, Portsmouth, Ironton, Ashland, Kenova, and Huntington are all points taking 87 per cent of the Chicago-New York rates under the trunk line percentage adjustment; that Columbus is a 77 per cent rate point to New York and other eastern points in trunk line territory, and in constructing rates to Virginia cities is, through the influence of the trunk line adjustment of rates to Baltimore, Md., accorded rates on the 77 per cent basis, notwithstanding the fact that to Virginia cities it does not enjoy the geographical advantage which secured to it the 77 per cent basis to New York; that in reaching the Virginia cities traffic from Columbus moves through Portsmouth, Kenova, and Huntington, all 87 per cent points under the prevailing trunk line adjustment, and, the latter points being thus intermediate, are given the advantage of the 77 per cent basis accorded Columbus; that competitive and other conditions between Chicago and New York have been such as to require some of the lowest rates in the country, being the result of years of strife between rival carriers both by rail and water; that the application of these extremely low rates to Virginia cities is an artificial adjustment, not warranted by traffic conditions; that the points intermediate to Roanoke have been accorded rates made by adding to the low Virginia cities rates, not the full locals from those cities, but differentials for the respective classes which are not higher than the locals for the first 5-mile block, with the combinations over Kenova as maxima; and that the factors from Huntington to Kenova are very much lower than the normal scale of the Chesapeake & Ohio for 8 miles. The Norfolk & Western contends that this results in a doubly low basis. Comparisons tending to indicate the reasonableness of the rates are also submitted.

In further justification of the rates assailed, the service rendered at Kenova in connection with the handling of traffic from Huntington is indicated. As above stated, the traffic is chiefly less than carload and moves in daily merchandise cars. The shipments average about three cars per day of 9,000 pounds each. Approximately two-thirds of these cars move to Kenova by way of the Chesapeake & Ohio,

and the remainder to that point by way of the Baltimore & Ohio. The Kenova freight station is operated jointly by the Norfolk & Western and the Chesapeake & Ohio, and cars arriving over the latter are placed by that carrier at the transfer platform. Those arriving over the Baltimore & Ohio are set at the interchange tracks, whence they are moved by a Norfolk & Western engine more than 1 mile to the transfer platform. At this transfer platform the contents of the cars are assembled according to intended destinations and placed in outbound cars. It was testified, but without details, that the service at Kenova on Huntington traffic destined to the points in question is greater than that performed on similar traffic originating at Kenova proper; also that, deducting from the average gross car revenue of \$5.67 accruing to the Chesapeake & Ohio the average per diem car charges and cost of placing and loading the cars at Huntington, a net revenue of \$2.27 per car is left. Although no details were given, the situation as to the Baltimore & Ohio was said to be substantially similar, except that the cost of handling and loading the traffic is slightly less.

As above stated, the Norfolk & Western publishes class rates from Ashland to the destinations here in question. It has had for many years, and still has, a contract with the Ashland Coal & Iron Railway under which it has the use of that line's freight station and terminals at Ashland and where it maintains a freight agent and force. The boat hire for the ferry service to Coal Grove is \$25 per day. All less-than-carload freight from Ashland destined to points on the Norfolk & Western east of Kenova is transferred into other cars at Kenova. This traffic to points between Kenova and Roanoke averages about 4,000 pounds per day. The Norfolk & Western admits that the barge service across the river and its contract with the Ashland Coal & Iron Railway make the handling of this traffic from Ashland somewhat expensive, but that it has "found that it thus far pays to be an Ashland railroad." It has established, as appropriately applicable from that point to the destinations with which we are concerned, the same class rates as are applied from Portsmouth to those destinations. With equal propriety, we think, the same rates should, under the circumstances, be applied from Huntington.

Defendants urge that the principle involved is far more important than the rates from Huntington and that a favorable response to complainant's contentions would result in a far-reaching disruption of a highly important and complicated rate structure. While in the view we take of the case the apprehended consequences are to be doubted, it is also to be said, as we have more than once held, that in any event such consequences would not justify an approval of rates which contravene the act.

Upon all the facts of record we are of opinion and find that the class rates applicable on traffic from Huntington to the Norfolk & Western main and branch line stations between Matewan and Salem, both points inclusive, are, and for the future will be, unduly prejudicial to Huntington and unduly preferential of the competing points of origin named in the complaint in so far as they exceed the respective class rates contemporaneously applied from Portsmouth to the same destinations, respectively, and that this disadvantage to Huntington must be removed. We do not find that the rates assailed are shown to be in themselves unreasonable. An order will be entered accordingly.

No. 8968.

E. J. WOOLWORTH

v.

UNION PACIFIC RAILROAD COMPANY ET AL.

Submitted November 17, 1916. Decided July 12, 1917.

Upon complaint attacking the rate on alfalfa meal in carloads from Kearney, Nebr., to Omaha, Nebr., on shipments first billed to Omaha and then rebilled to Owensboro, Ky., *Held:*

1. The through rate applied from point of origin to final destination was legally applicable.
2. The Kearney-Omaha component of the through rate may not be considered in the absence of an attack upon the through rate to final destination. Complaint dismissed.

H. B. Watson and E. J. Woolworth for complainant.

U. G. Powell for Nebraska State Railway Commission.

C. B. Matthai, N. H. Loomis, and H. A. Scandrett for Union Pacific Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is engaged in the manufacture of alfalfa meal at Kearney, Nebr. By complaint, filed June 20, 1916, he alleges that the rate of 14 cents per 100 pounds charged by the Union Pacific Railroad for the transportation in July, 1914, of three carloads of unmixed alfalfa meal from Kearney to Omaha, Nebr., destined to

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Owensboro, Ky., was unreasonable, illegal, unduly prejudicial, and in violation of the fourth section. Rates are stated in cents per 100 pounds.

The shipments were first billed to Omaha, whence they moved over the Union Pacific. They were rebilled from Omaha to Owensboro, to which point they moved over the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, to East St. Louis, Ill., and the Louisville & Nashville Railroad and Louisville, Henderson & St. Louis Railway beyond. Complainant prepaid the charges to Omaha based on a rate of 10.5 cents, specifically limited to intrastate traffic. The interstate rate contemporaneously applicable was 14 cents, which rate had been in effect from as early as March 15, 1913. Complainant never took actual possession of the shipments at Omaha, but forwarded bills of lading to the Burlington at Omaha covering the transportation beyond. Defendants considered complainant's manner of billing the shipments as a device to secure the benefit of the lower intrastate rate to Omaha, and therefore collected charges at Owensboro based on the through rate of 30 cents, composed of the interstate rate of 14 cents to Omaha, 8 cents to East St. Louis, and 8 cents beyond. The 8-cent component from Omaha to East St. Louis is a proportional rate and is used in the construction of through rates on shipments originating west of Omaha, being inapplicable to shipments originating at Omaha.

Complainant admits that the shipments were intended for Owensboro when they left Kearney, and that they were first billed to Omaha in an attempt to secure the benefit of the lower intrastate rate to that point. He states that he has secured the advantage of the lower intrastate rate on approximately 75 shipments made prior to those here involved and billed in the same manner. The Union Pacific is now attempting by appropriate court proceedings to collect alleged undercharges on such shipments. In *Kanotex Refining Co. v. A., T. & S. F. Ry. Co.*, 34 I. C. C., 271, we said:

This Commission, * * * has steadfastly adhered to the proposition that on any through carriage of traffic between interstate points the lawfully published interstate rate must be applied by the carrier and paid by the shipper, and that where the through interstate rate in effect between two points is higher than the aggregate of the intermediate rates any plan of first billing to an intermediate point a shipment that is really intended to reach a destination beyond is simply a device for defeating the lawful through rate, and is unlawful.

We find that the shipments were through interstate shipments from Kearney to Owensboro, and that the through rate charged was legally applicable.

Complainant contends that the 14-cent rate charged from Kearney to Omaha was unduly prejudicial as compared with the 10.5-cent

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rate applicable to intrastate traffic and with an interstate rate of 10.5 cents applicable on baled alfalfa from and to the same points. Effective September 10, 1914, the Union Pacific published a 10.5-cent rate applicable on interstate traffic from Kearney to Omaha. That defendant contends that the 14-cent rate charged was neither unreasonable nor unjustly discriminatory, stating that the Nebraska state railway commission required the establishment of the 10-cent rate on intrastate traffic, which rendered the 14-cent interstate rate impracticable, because shippers defeated it in the manner here attempted by complainant.

In *Omaha Alfalfa Milling Co. v. U. P. R. R. Co.*, 38 I. C. C., 351; 43 I. C. C., 264, we considered the lawfulness of the charges for the interstate transportation of carload shipments of alfalfa meal from Kearney to Omaha. The legal interstate rate of 14 cents was charged on the shipments. A rate of 10.5 cents contemporaneously applied from Kearney to Omaha on intrastate traffic. We found that the 14-cent rate was unduly prejudicial but denied reparation, because there was no proof of damage. The Kearney-Omaha component may not be considered owing to the absence of an attack upon the through rate from point of origin to final destination.

An order dismissing the complaint will be entered.

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No. 8474.

GAS & ELECTRIC APPLIANCE COMPANY
v.
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
ET AL.

Submitted May 29, 1916. Decided July 10, 1917.

Rate on cast-iron steam radiators with gas heating attachments, from New Comerstown, Ohio, to San Francisco, Cal., found not to have been or to be unreasonable and not shown to have been or to be unduly prejudicial. Complaint dismissed.

L. M. Olds for complainant.

E. W. Camp for Atchison, Topeka & Santa Fe Railway Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation dealing in gas and electric appliances, with its principal office at San Francisco, Cal. By complaint, filed November 22, 1915, it alleges that the rate of \$1.50 per 100 pounds charged by defendants on two carloads of cast-iron radiators with gas heating attachments, shipped from New Comerstown, Ohio, to San Francisco in September and October, 1914, was unreasonable and unjustly discriminatory to the extent that it exceeded the rate of \$1 per 100 pounds contemporaneously applicable to radiators without gas heating attachments. Reparation is asked. Rates are stated per 100 pounds.

The shipments weighed 49,400 pounds and 49,620 pounds, respectively, and were transported by way of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway and the Atchison, Topeka & Santa Fe Railway in connection with the Panhandle & Santa Fe Railway, except that the intermediate haul on one was by way of the Chicago & Alton Railroad. The Panhandle & Santa Fe and the Chicago & Alton are not named as defendants. Charges were collected in the sum of \$1,485.30 at the joint commodity rate of \$1.50, minimum 24,000 pounds, legally applicable.

The \$1.50 rate applied to a general mixture of heating appliances, including radiators with or without gas attachments. Contemporaneously a rate of \$1, minimum 40,000 pounds, applied on iron or steel radiators without gas heating attachments, and complainant's

contention is that the situation existing resulted in unjust discrimination against the radiators with gas heating attachments as well as in the application of an unreasonable rate.

Complainant's radiators are Clow low-pressure steam radiators with gas heating attachments, and are made of cast iron. They are designed primarily for steam production by the application of gas heat at the bottom, but may be connected with a central steam plant and used as ordinary steam radiators. The gas heating attachment consists of ordinary half-inch iron pipe perforated with small holes with a protecting sheet-iron pan beneath. The flame impinges against the bottom of the radiator and heats water which is poured through a provided inlet. There is a gauge to indicate the amount of water in the radiator. When packed for shipment, the legs and heating attachment are protected by crating, but the radiator itself is not protected. Apparently ordinary steam radiators are generally shipped without any packing.

Complainant's radiators are made up of sectional units, ranging from 3 to 15. It is one of several types of gas heating radiators, most of the others being more complex, of greater cost, and more susceptible to damage in transit.

The testimony with respect to values, risk of damage, and weight is general and not convincing, but may be said to indicate fairly that there is but little difference between the particular type of radiators involved and ordinary radiators without gas attachments. Gas heating radiators compete with ordinary steam radiators, but it is not definitely shown that the rate difference disclosed in any way operated to complainant's injury or prejudiced the marketing of its commodity.

For a long time prior to February 9, 1914, the rate of \$1.50, minimum 24,000 pounds, on the general mixture of heating appliances prevailed and there was also in effect the rate of \$1, minimum 40,000 pounds, which applied on straight carloads of iron or steel radiators with or without gas heating attachment. These were blanket rates applying from all defined territories, Missouri River and east thereof, to California terminals. Rates to intermediate points were higher. On the date named the straight carload item was changed to exclude the radiators with gas heating attachments, and this was done, as stated by defendants, because an investigation disclosed that the force of water competition, which had held the rate on radiators down to \$1, was less on the radiators with heating attachments and there was a smaller volume of tonnage. In February, 1915, the rate of \$1 was restored, the carriers finding, as testified, that the water lines were maintaining a rate of 78½ cents or less from New York to

San Francisco and that the rail carriers could not secure the traffic on a rate of \$1.50.

The competitive forces which affected the rates to Pacific coast terminals are well understood and we find that the rates assailed were and are not unreasonable and have not been shown to have been or to be unduly prejudicial. The complaint will be dismissed.



No. 8418.

BLODGETT MILLING COMPANY

v.

CHICAGO & NORTH WESTERN RAILWAY COMPANY.

Submitted May 12, 1916. Decided July 7, 1917.

Rate charged by defendant on six carloads of buckwheat flour from Janesville, Wis., to Geneva, Ill., found to have been unreasonable. Reparation awarded.

Frank H. Blodgett for complainant.

A. F. Cleveland for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in milling buckwheat flour at Janesville, Wis. By complaint, filed October 25, 1915, as amended at the hearing, it alleges that the rate of 11.5 cents per 100 pounds charged by defendant on six carloads of buckwheat flour shipped from Janesville to Geneva, Ill., between March 23, 1914, and December 15, 1915, inclusive, was unreasonable and unjustly discriminatory in violation of sections 1, 2, 3, and 4 of the act to regulate commerce. Reparation is asked and the establishment of a reasonable rate for the future. Rates are stated herein in cents per 100 pounds.

Janesville is situated northwest of Chicago, Ill., and is served by the defendant and the Chicago, Milwaukee & St. Paul Railway, hereinafter called the Milwaukee. The distance from Janesville to Chicago is 91 miles by way of defendant's direct line through Harvard, Ill., 117.5 miles over defendant's rails through Sycamore, Ill., and Geneva, and 99 miles by way of the Milwaukee. Geneva is a local station on defendant's line, 35.5 miles west of Chicago and 82 miles south of Janesville.

Buckwheat is not grown in the immediate vicinity of Janesville but is drawn into that point by rail in carloads. The bulk of complainant's business is transacted on milling-in-transit rates, but some of complainant's grain products move from Janesville on local rates.

The shipments moved over defendant's line by way of Sycamore. Charges were collected upon an aggregate weight of 230,799 pounds at defendant's local interstate distance rate of 11.5 cents legally applicable. This rate yielded earnings of 2.8 cents per ton-mile, and 56.1 cents per car-mile, based on a carload weight of 40,000 pounds. Effective January 22, 1916, defendant established a commodity rate of 8 cents on buckwheat flour from Janesville to Geneva, and this rate is still in effect.

Prior to January 8, 1914, defendant maintained a rate of 5 cents on buckwheat flour, carloads, from Janesville to Chicago. On that date the 5-cent rate was canceled and a rate of 8 cents was attempted to be substituted therefor, but the latter rate was not lawfully established. This resulted in a distance rate of 12.5 cents becoming applicable. On December 1, 1914, the 5-cent rate was established to Chicago and remained in effect until January 22, 1916, on which date it was increased to 8 cents. On July 1, 1916, the Janesville-Chicago rate was reduced to 6 cents, and this rate is still in effect. Prior to January 22, 1916, the routing in connection with the rates mentioned was unrestricted. On and since that date the tariffs publishing the rates have referred for routing instructions to tariffs containing a provision that all freight between its stations in Illinois and Wisconsin should be billed via the shortest route.

The Milwaukee maintains rates on buckwheat flour, carloads, of 5 cents from Janesville to Chicago and Elgin, Ill. The latter point is just north of Geneva and is 89 miles from Janesville by way of the Milwaukee. Defendant also serves Elgin, and its rate on buckwheat flour from Janesville to Elgin is 11 cents. Complainant observes that defendant maintains equal rates on agricultural implements, barbed wire, and sugar, in carloads, from Janesville to Geneva and Chicago. A joint proportional rate of 10 cents applies on flour from Minneapolis, Minn., through Janesville, to Chicago, by way of the Chicago, St. Paul, Minneapolis & Omaha Railway and the North Western, 422 miles. The local rate is 15 cents. The same rates also apply from Minneapolis to Geneva.

It was stated on behalf of defendant that in establishing rates from Janesville to Geneva the same as to Chicago on agricultural implements, barbed wire, and sugar it was influenced by competitive conditions which did not obtain as to flour; that the greater distances to Chicago and Geneva from Minneapolis than from Janesville made

it proper to extend the rate from Minneapolis over a larger destination territory than from Janesville; and that transportation from Janesville to Geneva involves a haul over a branch line on which traffic is comparatively light, and that the movement is therefore expensive. Various points in the vicinity of Janesville and Geneva were mentioned between which the distance tariff rates apply on flour. Defendant did not give any reason for reducing the Janesville-Geneva rate on buckwheat flour from 11.5 cents to 8 cents, but urges that the voluntary reduction should not be made the basis for an award of reparation.

We find that the rate assailed was unreasonable to the extent that it exceeded 8 cents per 100 pounds; that complainant made the shipments as described and paid and bore charges thereon at the rate herein found unreasonable; that it was damaged thereby to the extent that the charges paid exceeded those that would have accrued at the rate found reasonable; and that it is entitled to reparation with interest. The amount of reparation due can not be determined on this record and complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendant for verification. Upon receipt of a statement so prepared and verified we shall consider the entry of an order awarding reparation. As the 8-cent rate has been in effect for more than a year, no order for the future is necessary.

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No. 8890.

A. BUSHNELL

v.

ST. LOUIS & SAN FRANCISCO RAILROAD COMPANY
ET AL.

Submitted September 11, 1916. Decided July 17, 1917.

1. The movement of two double carloads of piling from Lepanto, Ark., to Bridge Junction, Ark., held interstate as part of a through movement to Clayton, La.
2. Rate charged for the transportation from Lepanto to Bridge Junction not shown to have been unreasonable. Complaint dismissed.

A. Bushnell for complainant.

Thomas Bond for St. Louis & San Francisco Railroad Company and its receivers.

REPORT OF THE COMMISSION.

By THE COMMISSION:

Complainant is engaged in the wholesale lumber business at Kansas City, Mo. By complaint, filed April 29, 1916, he alleges that the rate of 7 cents per 100 pounds charged by defendants for the transportation from Lepanto, Ark., to Bridge Junction, Ark., of two double carloads of piling shipped from Lepanto through Bridge Junction, to Clayton, La., on July 22, 1914, and August 11, 1914, was unreasonable to the extent that it exceeded 4 cents per 100 pounds. Reparation is asked. Rates are stated in cents per 100 pounds.

The shipments, consisting of two double carloads of 80-foot piling, were consigned to "C. E. Smith, assistant chief engineer, c/o Midland Bridge Company," at Clayton, and were routed by the shipper "c/o St. L. & I. Mt. R. R. at Bridge Jct., Ark." They moved over defendant's line from Lepanto to Bridge Junction and thence to Clayton over the St. Louis, Iron Mountain & Southern Railway, hereinafter called the Iron Mountain. There was no joint rate in effect from Lepanto to Clayton. The lowest rate applicable from and to those points was a combination rate of 31 cents, composed of the defendant's local rate of 7 cents to Memphis, Tenn., and the Iron Mountain's local rate of 24 cents beyond. Defendant's local interstate rate to Bridge Junction was 9 cents, but as Bridge Junction is intermediate to Memphis, under rule 5 (b) of Tariff Circular 18-A, the Memphis combination was applicable. Charges were col-

lected for the transportation to Bridge Junction at the 7-cent rate, but no charge was made for the transportation beyond that point, the piling being intended for use in constructing a bridge on the line of the Iron Mountain at Clayton.

Complainant testified that the piling was company material of the Iron Mountain; that the consignee was an official of that road; that although the shipments were consigned to Clayton in accordance with instructions of the purchaser, this was merely as information; that they were intended to be delivered to the Iron Mountain at Bridge Junction, and were actually received by that road at that point; and that he had no interest in their transportation beyond the junction point. Complainant's sole contention is that these were intrastate shipments from Lepanto to Bridge Junction, and that the rate legally applicable was the intrastate rate from and to those points, stated by the defendants to have been 5 cents.

In *Rates on Railroad Fuel and Other Coal*, 36 I. C. C., 1, 8, we said:

It is well settled that the character and nature of the movement of the traffic, that is, whether the movement is a through or local movement and not the mere accidents of billing, determine the nature of the commerce and the rate applicable. * * *

We are of opinion that the shipments under consideration were through interstate shipments to Clayton and that, therefore, the interstate local rate of 7 cents for the transportation to Bridge Junction was legally applicable and properly collected. No testimony was presented by complainant directed toward the reasonableness of this factor, and the complaint will accordingly be dismissed.

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No. 8178.

DAVIDSON GROCERY COMPANY ET AL.

v.

BUTTE, ANACONDA & PACIFIC RAILWAY COMPANY
ET AL.

Submitted July 31, 1916. Decided June 21, 1917.

Rates on canned goods in straight and mixed carloads from Salt Lake City and certain other points in Utah to Butte, Mont., found to have been and to be unreasonable. Reparation awarded.

O. W. Tong for complainants.

J. C. Maring for Butte, Anaconda & Pacific Railway Company.

L. T. Wilcox and *H. A. Scandrett* for all defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION :

Complainants are Davidson Grocery Company and Butte Wholesale Grocery Company, corporations, engaged in the wholesale grocery business at Butte, Mont. By complaint, filed July 24, 1915, they allege that the rates charged by defendants for the transportation of canned goods of various kinds in straight and mixed carloads from Spanish Fork, Springville, and Provo, Utah, on the San Pedro, Los Angeles & Salt Lake Railroad, hereinafter called the Salt Lake route, and from Murray, Salt Lake City, Syracuse, Ogden, Five Points, Willard, Perry, Brigham, and Tremonton, Utah, on the Oregon Short Line Railroad, hereinafter called the Short Line, to Butte, were and are unreasonable to the extent that they exceeded and exceed 30 cents per 100 pounds, minimum 40,000 pounds. Reparation is asked on shipments made within two years prior to the filing of the complaint. Rates are stated in cents per 100 pounds:

The rates assailed apply on canned fruit and vegetables, including pork and beans, sauerkraut, and ketchup, in glass, earthenware, or hermetically sealed tin cans. In April, 1913, as to certain of the originating points, and in August, 1914, as to the remainder, the minimum weight was increased from 36,000 pounds to 40,000 pounds, without a change in the rates, except from certain points from which the applicable 60-cent rates were reduced, on the latter date, to 55 cents, the rate applicable from all the other points. On April 22, 1915, all of the rates were reduced to 50 cents without change in the minimum. Complainants' shipments moved under the 55-cent

and the 50-cent rates. It is insisted that the rate prayed is reasonable principally because a rail-and-water rate of 40 cents applies on canned goods from California points to New York, N. Y., by way of Galveston, and a rate of 62.5 cents, minimum 60,000 pounds, from California points to St. Paul, Minn., and eastern territory. The 62.5-cent rate also applies to intermediate points in Montana.

Canned goods are easily loaded to the present minimum of 40,000 pounds. The average distance from the points named on the Salt Lake route is 533 miles, and from the points named on the Short Line, 395 miles. Under the 55-cent rate and 36,000-pound minimum the per car revenue was \$198, and under the 50-cent rate and present minimum, \$200. It will suffice to deal with the present rate. The ton-mile and car-mile earnings from the Salt Lake route stations are 18.76 mills and 37.52 cents, respectively, and from the Short Line stations 25.31 mills and 50.63 cents.

Canned goods in carloads are rated fifth class in the western classification, minimum 36,000 pounds. Complainants offer in comparison rates on other articles rated fifth class or higher, including a rate of 50 cents on canned beans, peas, and tomatoes from Tremonton to Portland, Oreg., 863 miles, with ton-mile and car-mile earnings of 11.58 mills and 28.96 cents. It is also shown that rates of 50 cents and 55 cents apply on canned goods, carloads, from Salt Lake City to certain points in Nebraska, Oklahoma, Oregon, and Washington, in which defendants participate with one or more other carriers, for distances ranging from 741 to 1,609 miles, yielding ton-mile revenues of from 6.83 to 13.49 mills. Particular attention is directed to a rate of 45 cents, minimum 40,000 pounds, on canned goods from Canon City, Colo., to Salt Lake City, 582 miles, earning 30.92 cents per car-mile. Other rates in the same general territory, on much the same basis, are also cited.

In justification of the rates assailed, defendants contend that the transportation conditions by the route of movement are very severe and unlike those in other sections of the country. They cite, in comparison, a rate of 62.5 cents on canned fruits and vegetables, minimum 60,000 pounds, from Los Angeles, Cal., to certain Arizona points, an average haul of about 416 miles, earning approximately 30 mills per ton-mile. It is admitted, however, that this is a transcontinental rate and extends as far east as New York.

It is also submitted by defendants that a rate of 50 cents, minimum 50,000 pounds, from San Francisco, Cal., and Portland to certain Nevada and Idaho points, earning approximately 24 mills per ton-mile, demonstrates the reasonableness of the rates assailed. Other comparisons of rates from Colorado points to points in Kansas, Texas, New Mexico, and Arizona were offered.

The rate of 30 cents asked by complainants is not supported by sufficient evidence to warrant its acceptance as the reasonable rate. From Salt Lake City, which is a representative point of origin, to Spokane and Portland, a rate of 50 cents on canned goods, minimum 50,000 pounds, applies over two lines for 885 miles and 902 miles, respectively, with car-mile earnings at the minimum of 28.25 cents and 27.72 cents, respectively. In view of all the circumstances, we are of the opinion that from any of the points of origin to Butte a rate in excess of 40 cents, minimum 40,000 pounds, is unreasonable. The average distance is 442 miles, for which that rate would yield 36.20 cents per car-mile.

Upon the record we find that the rates assailed were, are, and for the future will be unreasonable to the extent that they exceeded and may exceed rates of 40 cents per 100 pounds, minimum 40,000 pounds; that complainants made various shipments of canned fruits and vegetables, in carloads, between the points involved, and paid and bore charges thereon at the rates herein found unreasonable; that they have been damaged to the extent that the charges paid exceeded those that would have accrued on the basis herein found reasonable; and that they are entitled to reparation, with interest. The exact amount of reparation due can not be determined on this record, and complainants should prepare statements showing the details of their respective shipments in accordance with rule V of the Rules of Practice, which statements should be submitted to defendants for verification. Upon receipt of statements so prepared and verified, we will consider the entry of an order awarding reparation.

An appropriate order will be entered.

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INVESTIGATION AND SUSPENSION DOCKET No. 1035.
COAL TO MUSCATINE, IOWA.

Submitted May 7, 1917. Decided July 17, 1917.

Proposed cancellation of joint rates on coal from mines in Illinois to Muscatine, Iowa, found not justified, and suspended schedules required to be canceled.

R. H. May for Chicago, Burlington & Quincy Railroad Company.
Theodore W. Krein for Muscatine, Burlington & Southern Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By schedules, filed to take effect February 25, 1917, the Chicago, Burlington & Quincy Railroad, hereinafter called the Burlington, proposed to cancel its joint rates with the Muscatine, Burlington & Southern Railroad on coal from mines in Illinois to Muscatine, Iowa, thereby rendering applicable combination rates based on Burlington, Iowa, which would be higher than the present joint rates. Upon protest of the Muscatine, Burlington & Southern and numerous receivers of coal at Muscatine, the schedules were suspended until December 25, 1917.

It was stated on behalf of the Burlington that the sole reason for attempting to cancel the present rates was that respondents were no longer in accord as to the divisions thereof; and that rates the same as those proposed to be canceled would remain in effect over other routes. If the proposed rates are found not to be justified we are asked to prescribe divisions of the present rates.

We have uniformly held that a disagreement between carriers as to divisions of rates is of itself no justification for an increase in rates, and we see no reason for a different conclusion in this case.

Upon the record we find that the proposed cancellation of the joint rates in question has not been justified and that the suspended schedules must be canceled.

An appropriate order will be entered.

INVESTIGATION AND SUSPENSION DOCKET No 955.
LOUISIANA COTTON.

Submitted June 22, 1917. Decided July 11, 1917.

1. Proposed increased rates, and changed regulations and practices, on cotton from Louisiana points to Mississippi River crossings, including New Orleans when the movement is interstate; to New Orleans and other Gulf ports for export; and to defined territories east of the Mississippi River, found just and reasonable except as indicated in the report.
2. In order to avoid the unjust discrimination and undue prejudice that would result from the operation of the proposed rates, regulations, and practices in their present form, respondents are directed to cancel the suspended tariffs, without prejudice to their right on short notice to establish rates from points in Louisiana to the interstate destinations here considered, and for export, or for interstate transportation to New Orleans, upon bases not higher than those found reasonable in the report and with such modifications of their rules and regulations as are indicated.

Edward H. Hart for Vicksburg, Shreveport & Pacific Railway Company; Alabama & Vicksburg Railway Company; New Orleans & Northeastern Railroad Company; and other Mississippi Valley and southeastern carriers.

J. M. Souby, O. W. Owen, Frank Koch, E. O. D. Marshall, E. O. Sides, G. H. Hamilton, W. M. Hough, A. J. Lehmann, and B. F. Atkinson for southwestern lines.

L. M. Nicholson and John A. Smith for New Orleans Joint Traffic Bureau.

W. D. Coleman and W. D. Haas for Alexandria Chamber of Commerce.

H. J. Fernandez for Monroe, La., Chamber of Commerce.

L. F. Daspit for Shreveport Chamber of Commerce.

REPORT OF THE COMMISSION.

HALL, Chairman:

For some time the rail carriers in Louisiana have desired to increase and readjust their class and commodity rates applying on traffic both interstate and intrastate. We have here before us the rates proposed for transportation of cotton from points in Louisiana to a large number of interstate destinations. A proposal to make corresponding changes in the intrastate rates is pending before the railroad commission of Louisiana.

By tariffs filed to become effective on various dates between November 1, 1916, and March 30, 1917, the respondents proposed to make

certain increases in the rates and charges, and changes in the regulations and practices, affecting the interstate transportation of cotton and cotton linters from points in Louisiana to Galveston and Port Arthur, Tex., to New Orleans, La., and to points on and east of the Mississippi River. Upon request of the respondents, and on protests made by the Chamber of Commerce of Alexandria, La., the New Orleans Joint Traffic Bureau, the Chamber of Commerce of Shreveport, La., and others, the operation of these tariffs was suspended until September 1, 1917, and later dates. Rates are stated in cents per 100 pounds.

The points of origin named in the proposed tariffs and the points in Louisiana where cotton is grown in substantial quantities are west of the Mississippi River, north and west of a line running through the parishes of Avoyelle, St. Landry, La Fayette, and Vermilion. Some cotton is grown within 100 miles of New Orleans, but more than 80 per cent of the production is beyond the line indicated more than 120 miles from that port.

It will simplify the consideration of the proposed rates to recognize at the outset that all must stand or fall with those proposed to New Orleans for export. The rates to New Orleans proper and for export differ only by the charge for ship-side delivery, generally 3 cents per 100 pounds, which obtains in the present and in the proposed rates. New Orleans is not only the chief cotton market of Louisiana and the main point from which the cotton production and distribution of the state is financed, but is also a Gulf port and from many points in Louisiana and Texas has rates for export substantially the same as those to Galveston and Port Arthur. It is also a Mississippi River crossing and rates to it from many western points are made with relation to the rates to other crossings, such as Vicksburg, Miss., Memphis, Tenn., and St. Louis, Mo. Through rates from Louisiana stations to all points east of the river are either combinations on the crossings or joint rates equal to or less than such combinations. Joint rates on cotton from Louisiana stations to destinations in New York and New England are based upon the rates from those stations to New Orleans for ship side, plus the ocean rate to New York City. The all-rail rates are certain differentials over these base rates.

From interior points, such as Shreveport, Monroe, and Alexandria, cotton for export must move on interstate rates. Cotton from the same points to New Orleans for sale there is handled as New Orleans cotton; it is traded in, passing from hand to hand, and ultimately the major portion of it is exported or shipped to eastern seaboard points. A very small portion of the total amount of cotton so handled is used in manufacture at New Orleans. If the interstate

rates on cotton to New Orleans proper should be lower than the rates for export by more than the established ship-side charge at that place, New Orleans would be given a preference and the interior cotton markets subjected to a disadvantage which would be unlawful. In view of this situation respondents requested the suspension of the tariffs now before us and admit that discriminations would be created by the proposed rates unless the lower state rates should be increased to the same level.

It is proposed to group cotton and cotton linters together. This is a change in so far as some of the lines are concerned, but is not strongly opposed by any of the protestants. The carriers seek to justify it upon the ground that the only difference between cotton linters and cotton is the lower value of the former. Linters are cotton; they are baled and compressed in the same manner as cotton; both weigh about the same per bale and are handled under the same conditions, except as to the amount of the insurance risk. Rates on linters the same as those on cotton have been approved by us in other territories and we find that this adjustment is reasonable and proper.

Three grades of rates are proposed: Rates on compressed cotton, rates on cotton to be compressed by the carrier, and rates on "flat cotton," that is, cotton offered for transportation uncompressed to be delivered at destination uncompressed. We use the proposed rates on compressed cotton as the basis of our analysis of all these rates and as illustrative of the proposed adjustment. The cost of compression to the shipper is 10 cents per 100 pounds or 50 cents per bale of 500 pounds, whether compressed prior to transportations in transit, or at destination. The rates proposed for cotton to be compressed in transit are 10 cents higher than the rates on compressed cotton; and for flat cotton are 10 cents higher than on cotton to be compressed in transit, or 20 cents higher than on compressed cotton. An examination of our tariff files shows that for more than seven years similar grades of rates with like differences between them have been maintained by these carriers from other points west of the Mississippi River. The first two grades yield the carrier the same net amount. The reason offered by respondents for the higher rate on flat cotton is that it takes approximately twice the car space necessary for compressed cotton. The proof of this is complete. One of the protestants frankly said that he did not expect the carriers to increase their earnings under these proposed flat rates, as most of the cotton would move compressed. The only objections to the measure of the increase in rates on flat cotton were made by protestants located at New Orleans. Two grounds were urged: First, that for trade reasons it is sometimes desirable, or necessary, to have cotton

move uncompressed; and, second, that where the transportation is for short distances it is more expensive to the carrier to stop the cotton for compression than to carry it through to destination, even though double car space be required. The desirability, especially at the present time, of utilizing cars to the fullest extent is well recognized. If cotton is transported "flat" in order to meet trade requirements and convenience, the resulting use of additional car space should be paid for by the shipper. The peculiar position of certain short distance points ought not to control the adjustment of rates over a large territory such as that here considered, particularly where, as here, most of the cotton moves more than 120 miles. We find that the rates proposed on flat cotton higher than on compressed cotton are reasonable and proper.

In using the rates on compressed cotton as the basis of our consideration of the proposed rates generally, we bear in mind that these rates usually apply only from points where compresses are located, or from junctions and concentration markets. Rates on compressed cotton are not published from every station, but rates for cotton to be compressed in transit and for flat cotton bear the relations thereto above described; and, the provisions of the fourth section of the act having been observed generally, this basis shows at once what is proposed from stations named as well as the maximum charges on other grades of cotton from intermediate points.

Louisiana has many rivers, bayous, and other waterways which are, or have been, navigable. The northern half of the state is bounded on the east by the Mississippi River and a large part of this territory is threaded by the Red and Ouachita rivers and their subsidiaries. Before the advent of rail carriers cotton moved by these waterways to New Orleans and when the railroads began to serve the state they made rates on cotton in competition with those of the boat lines. This explains why the rates on cotton apply, generally, in any quantity, and why the rail rates sometimes apply per bale instead of per 100 pounds. The rates by rail from Shreveport to New Orleans, and perhaps other present rates, have not been changed substantially since about 1884. The railroad commission of Louisiana soon after its creation adopted the rail rates then in effect, with the result that since then no changes in these rates for intrastate transportation have been possible without the consent of that body. Rates from points in Louisiana to New Orleans for local delivery are mainly rates which were made to meet water competition, have been held down substantially to the original basis by the state commission, and apply whether the movement is entirely within the state or not. From nearly all points in Louisiana it is practicable to move cotton to New Orleans by rail routes which

do not go outside the state. The Vicksburg, Shreveport & Pacific Railway extends from Shreveport in the northwestern portion of the state across the northern tier of parishes to Vicksburg, Miss. Traffic for New Orleans originating on its line is carried by it to Vicksburg and there delivered to its rail connections for the further movement through Mississippi to destination. This carrier meets rail competition at Shreveport, Sibley, Gibsland, Ruston, Tremont, Monroe, Rayville, Delhi, and Tallulah, and if it is to participate in traffic from these junctions to New Orleans its rates must be the same as the rates of carriers whose routes to New Orleans lie entirely within the state.

The respondents say that the occasion for making changes at this time and in the manner attempted arises from what we said in *Memphis Freight Bureau v. St. L., I. M. & S. Ry. Co.*, 39 I. C. C., 224, on page 243:

With regard to rates on cotton, it should be stated, however, that from points east of the Shreveport group and especially from points near the Mississippi River, there would seem to be no reason for maintaining higher rates for like distances to Memphis than are contemporaneously maintained in the reverse direction to New Orleans. This is obviously also true of points the rates from which are not influenced by water competition, and carriers will be expected to revise their rates accordingly. The present rates from points in Louisiana to Memphis are from 5 cents to 18 cents below the rates from the same points to St. Louis. The distances to Memphis are, on the average, about 250 miles less than to St. Louis. For so great a difference in distance a differential of 5 cents would appear to be too small. Carriers will be expected to revise their rates on cotton to Memphis and St. Louis from the points of origin herein involved so as to effect a difference in harmony with that prescribed in class rates in the reverse direction.

Respondents say that as they interpret this, guided by their desire to increase cotton rates in Louisiana, such a readjustment of rates from points east of Monroe and Alexandria could not properly be made without corresponding changes from points west thereof. As we understand their evidence the bases upon which they were obliged to work in increasing and readjusting their rates were these: First, that from points east of the Shreveport group they should equalize the rates for similar distances to Memphis and to New Orleans; second, that export rates to New Orleans from Shreveport should in no instance exceed export rates from Texas points through Shreveport to New Orleans; and, third, that because of competition between the various rail carriers, the distances by some routes greatly exceeding the short-line distance, application of a strict distance scale was practically impossible. As a result of these limitations the proposed rates were made by establishing rates from junctions and extending these rates to near-by points. This method has resulted in groups of points surrounding certain junctions and in rates made with regard for

distance, but not upon a strict distance basis. The adoption of the export rate on cotton from Texarkana, Tex., through Shreveport to New Orleans as the upper limit of the export rate from Shreveport causes the proposed rates to bear some resemblance to the Texas intrastate distance rates on cotton.

Confining our rate statements, as far as possible, to the rates proposed on compressed cotton, and following the line of the Vicksburg, Shreveport & Pacific Railway, not only because the rates from points on that road to New Orleans are interstate rates but also because distances from points on that line to Memphis and to New Orleans are approximately the same, we find that from points both east and west of Monroe the situation is as follows:

Distances and rates on compressed cotton.

From—	To Memphis.			To New Orleans.		
	Miles.	Present rate.	Proposed rate.	Miles.	Present rate.	Proposed rate.
Tallulah.....	237	1 40.5	1 45	257	1 30	1 45
Dalhi.....	260	30.5	35	276	25	35
Rayville.....	236	30.5	35	268	25	35
Monroe.....	239	33	37	291	25	37
Ruston.....	313	38	40	274	30	40
Gibbsland.....	300	1 48	1 50	294	1 45	1 50
Shreveport.....	323	38	40	307	30	40
Average.....	273	.....	.....	281	.....	.....

¹ Rate for compression in transit.

All these present rates to New Orleans apply interstate by way of the Vicksburg, Shreveport & Pacific, although made in competition with carriers that serve these points by routes lying wholly within Louisiana, for the points of origin given above are all junction points. The proposed rate from Shreveport to New Orleans for local or depot delivery yields, via the short line, a ton-mile revenue of 26 mills, or a car-mile revenue of 39 cents, assuming the car to be loaded with 60 bales. Sixty bales of cotton are worth, at the present time, about \$4,500. The proposed increase in the rate from Shreveport to Memphis is 2 cents; to New Orleans 10 cents. This is due in part to the fact that the rate from Shreveport to New Orleans has not changed materially for more than 30 years, in part to the former river competition, but mainly to the intrastate character of transportation between the points by all other carriers. The Vicksburg, Shreveport & Pacific Railway, in making these rates to Memphis and New Orleans, is the long line competing with the more direct lines and the distances shown are by way of the workable short lines. The present rates from Monroe to Memphis and to New Orleans are 5 cents less than from Shreve-

port; the proposed rates give Monroe a difference of only 3 cents. The narrowing of this difference between the rates from Shreveport and Monroe is perhaps the principal ground of objection by Monroe interests; although the latter, admitting that some increases should be permitted, insist that the proposed rates are too high. Alexandria is not shown in the table because not on the line named. The distance from Alexandria to Memphis is 336 miles and to New Orleans is computed as being 214 miles, an aggregate consisting of 194 actual and 20 constructive miles. From Alexandria the present rate to Memphis is 45 cents, proposed rate, 43 cents; to New Orleans the present rate is 26 cents, proposed rate, 35 cents. We see no inconsistency in the alignment of these rates, the adjustment between Alexandria, Shreveport, and Monroe appearing to be fairly made.

Within reasonable limits it is impossible to give all the comparisons of rates and distances shown by the respondents and protestants for the purpose of proving the reasonableness of the proposed rates, or the contrary. Respondents show that the proposed rate from Shreveport to New Orleans is less than the rates from Grenada, West Point, and Booneville, Miss., to New Orleans and Mobile, the distances being comparable. This rate is also shown to be 1 cent less than the rate applicable under the Texas scale for the same distance. The proposed rate from Monroe to New Orleans is compared with rates from points in Mississippi and Alabama to New Orleans and Mobile, and is shown to be lower for similar distances. The proposed rate from Alexandria to New Orleans is shown by the respondents to be 6 cents less than the present Texas rate for the same distance.

One of the changes proposed by the respondents is the cancellation of their individual exceptions to the western classification rating of cotton. Under the western classification cotton is rated first class and the change proposed would result in the application of first-class rates on cotton in the absence of specific commodity rates. The tariffs suspended provide specific rates very much less than the first-class rates and between practically all points where a movement is possible. We find that the respondents have shown that the restoration of cotton to the rating applying generally is reasonable and proper.

Our recommendation in the *Memphis Case, supra*, was that the differential on cotton between Memphis and St. Louis should be increased to effect a difference in harmony with that prescribed in class rates in the reverse direction. The first-class differential, St. Louis over Memphis, to the Shreveport triangle is 20 cents, and as cotton from Louisiana to Memphis moves on a commodity rate which is approximately 50 per cent of the full first-class rate the

respondents have not thought that our recommendation required a differential of 20 cents. In the proposed adjustment they have applied a differential on cotton to St. Louis which is generally 10 cents over the rate to Memphis. From a few points, owing to carrier competition and the distances to Memphis and to St. Louis, this differential is increased to 12 cents. Some of the resulting rates are: From Delhi to Memphis 35 cents, to St. Louis 47 cents; Rayville to Memphis 35 cents, to St. Louis 47 cents; Monroe to Memphis 37 cents, to St. Louis 49 cents; Ruston to Memphis 40 cents, to St. Louis 50 cents; Shreveport to Memphis 40 cents, to St. Louis 50 cents.

That the measure of the differential is approximately correct is shown by the table of class rates and differentials at the top of page 247 of the report cited.

The proposed rates to all points in Atlantic seaboard and New England territories are based upon combinations of the export rates to New Orleans plus the ocean rate from New Orleans to New York, other points in these territories taking differentials over or under the New York rate. From Shreveport to New Orleans the ship-side, or export rate, is 43 cents, and the ocean rate from New Orleans to New York used to make the joint through rail-and-water rate is 25 cents, the rate formerly in effect by the Morgan line. This makes a proposed rate of 68 cents from Shreveport to New York as against the present rate of 59 cents. Proposed insured rates and all-rail rates are small differentials over this, the insured rate being 70 cents and the all-rail rate 72 cents. Respondents call attention to the proposed all-rail rate from Shreveport to Boston, Mass., 77 cents for a distance of more than 1,600 miles. On a carload of 55 bales of compressed cotton, total weight 27,500 pounds, this rate would yield \$211.75, equal to a car-mile revenue of a fraction over 13 cents. They contrast the revenue on this commodity, 27,500 pounds of which at the present prices is worth more than \$4,000, with the revenue on a carload of lumber weighing 50,000 pounds and moving from Shreveport to Boston at the rate of 39 cents per 100 pounds, or \$195 for the carload, the value of such a car of ordinary lumber being approximately \$500.

In order to present a clear view of the larger matters at issue, we have treated the rate to New Orleans as the key to the entire situation. This is substantially correct, but it is to be borne in mind that the adjustment hinges also on the rate to Memphis, for the latter controls rates to St. Louis and to the Ohio River crossings. The position taken by New Orleans protestants is that rates to Memphis and to New Orleans should not be equalized on the basis of the distances to the two markets, notwithstanding what was

said in the *Memphis Freight Bureau Case, supra*. New Orleans naturally desires to retain advantages it has long possessed, but nothing shown in this record is persuasive that our recommendation in the case cited was erroneous. In behalf of lower rates to New Orleans than to Memphis it is urged that New Orleans is entitled to Gulf port rates; that from points in Louisiana the average distance to Galveston, Port Arthur, and New Orleans is less than the actual distance to Memphis; and that it follows that New Orleans should have lower rates than Memphis. This theory is unsound; it was disproved by its proponent in admitting that the present rates to the Gulf ports named are not made on the basis of the average distances to them, but that equalization of port rates is made by the carriers irrespective of the distance to each port.

The schedules suspended contain rates from a few points in Arkansas. No protest was received and no evidence offered concerning these rates other than the statement made in behalf of the respondents that the proposed rates from points in Arkansas must stand or fall with the rates from points in Louisiana. These rates apparently are adjusted with relation to the rates from near-by points in Louisiana and observe the requirements of the fourth section of the act. We do not further consider them here.

Some changes are proposed with respect to the rates, rules, and regulations concerning the concentration of cotton and back hauling for that purpose. The present and the proposed concentration rates and rules of the individual respondents are not all alike. On some lines few or no changes in these particulars are proposed. On others there are admitted errors in the tariffs suspended with respect to back haul and concentration rates and rules, and these errors the respondents have offered to amend and adjust. Without prejudice to the rights of either protestants or respondents we shall not further consider these matters, as they are mere incidents to the larger things here in issue, beyond stating that uniformity is desirable wherever possible.

Respondents say that, in the publication of the proposed rates, it was their desire to do away with the carriers' privilege of compression in transit. The present rates between Louisiana points are upon a twofold basis: (1) Rates applicable on cotton delivered to the carrier compressed; and (2) rates applicable on cotton delivered to the carrier uncompressed, with privilege to the carrier of having the same compressed in transit at its expense. This basis is similar to that in force east of the Mississippi River. The proposed rates are upon the threefold basis which has obtained for many years generally from cotton-producing territory west of the Mississippi River and is now in effect from Louisiana points to many interstate destinations, that is to say: (1) Rates on compressed cotton, (2)

rates on cotton to be compressed by the carrier, and (3) rates on flat cotton, or cotton offered for transportation uncompressed to be delivered at destination uncompressed. In the publication of the suspended tariffs the rules governing rates on cotton to be compressed by the carrier were not properly harmonized and some of the tariffs attempt to continue the carrier's privilege of compression in connection with the threefold basis of rates. This optional feature may be proper under the twofold basis but is obviously out of place in connection with a basis which provides specific rates for compressed cotton, for cotton to be compressed by the carrier, and for flat cotton.

For uniformity, the carriers, through their counsel, now suggest as a proper rule for application by all of them in Louisiana, west of the Mississippi River, the following rule as proposed in one of the suspended tariffs:

Rates apply on cotton and cotton linters delivered at destination compressed but which were delivered to carrier at points of origin in uncompressed bales and compressed by and at the expense of the carrier. Shipper will be required to designate, by notation on bills of lading covering shipments, if cotton or cotton linters are to be compressed or are to go through to destination uncompressed. When such instructions are not given by shipper, or when shipper is notified that no available compress is in operation to perform the work of compression, the rate on uncompressed shipments will be applied.

We think this a proper rule.

The record before us shows many errors, omissions, and inaccuracies in the publication of the proposed rates. These the respondents have noted on the record and have offered to correct. They do not touch the main issues and this report need not be burdened by consideration of them. One example of maladjustment is the rate from Opelousas to New Orleans, the former not having been included among the points from which increased rates are proposed. Lines in southern Louisiana which are substantially direct short lines between Houston-Galveston and New Orleans have low rates providing for the transfer of cotton from port to port. These rates, under the fourth section of the act, have heretofore limited the rates from intermediate points such as Opelousas, and in the publication of the proposed rates the rates from Opelousas, and from similarly situated points, were not increased. Cotton dealers at Alexandria compete with those at Opelousas and the failure to increase the rates from Opelousas was one of the main grounds for the protest against the proposed increased rates from Alexandria. At the hearing the respondents admitted the impropriety of increasing rates from Alexandria without corresponding increases from Opelousas. They have applied for permission to increase the rate on compressed cotton from Opelousas to New Orleans to 30 cents, export rate 33

46 I. C. C.

cents. This adjustment seems to be satisfactory to protestants at Alexandria and we find the rates now proposed would be reasonable and proper.

Shreveport protestants call attention to certain violations of the long-and-short-haul rule of the fourth section which would result from the proposed rates. For instance, the proposed rate on cotton linters from Shreveport to New Orleans for export would be higher than the present rate on the same commodity from Texarkana through Shreveport. This is due to the fact that linters from Texarkana now move on a rate lower than the rate on cotton. The proposed rates from Shreveport to New Orleans for export would in some instances exceed the export rates applicable through Shreveport from a few points in Arkansas. The adjustment of the proportional rate from Houston, Tex., to New Orleans, which was offered by the respondents at the hearing, should be modified in such manner that the proportional rate established may not be used to cut the rates from points near Houston through Shreveport to New Orleans below the rate from Shreveport. These maladjustments the carriers will be expected to correct. *Drewes Sugar Co. v. S. P. Co.*, 44 I. C. C., 533.

To show the necessity for these increased rates the respondents offer evidence concerning the large, and apparently permanent, increases in the cost to them of labor and materials. Of the more direct lines connecting Shreveport and New Orleans one is now in the hands of receivers and the other can not pay the interest on its bonded indebtedness.

The respondents show at some length the transportation peculiarities of cotton and the additional expenses of handling it over the ordinary costs of handling commodities generally. Cotton, as has been pointed out before, is commonly moved on rates which apply on the commodity in any quantity; that is, the rate per 100 pounds applies equally upon a single bale of cotton or upon a carload. In carload quantities it moves long distances; the transportation for short distances is of a few bales only; and cotton in less-than-carload quantities moves from local stations to compress, concentration, or market points in lots of from 1 to 30 bales. From 30 to 33 bales of uncompressed cotton is about the best loading that is obtained in the standard car without additional labor and expense in placing the cotton in the car. As this commodity ordinarily moves in less-than-carload quantities to the nearer destinations, and almost exclusively in carloads of 50 bales or more to more distant destinations, the rates, although published to apply on any quantity, may properly be materially higher for shorter than for longer distances.

The respondents show the insurance cost for cotton exceeding the insurance cost for commodities generally; the additional quasi insurance cost for transportation of cotton in the expense incurred to guard it against fire; the extra facilities provided solely for the handling of cotton, and fully used only during a period of about four months in the year; the extra switching demanded at junction points where cotton is compressed or concentrated; the incidental car-service cost to them over and above the services required for less-than-carload commodities generally; and above all, the great demand for equipment to move this seasonal crop soon after it is gathered.

The proposed rates to Vicksburg are of importance in and of themselves, and by reason of the relationship which exists between New Orleans, Vicksburg, and Memphis, as Mississippi River crossings. Rates from Louisiana points to southeastern destinations, to Carolina groups, south Atlantic ports, and to Virginia cities are based upon the rates to these crossings. The present rate on compressed cotton from Shreveport to Vicksburg is 20 cents, and the proposed rate 25 cents, the distance by the short line being 172 miles. The proposed rate of 25 cents applies at compress points eastward to Ruston, with 23 cents at Delhi and 15 cents at Mounds. Intermediate points where there are no compresses would take rates 10 cents higher on cotton to be compressed in transit. The present and proposed rates from Mounds are the same. The proposed rates are 3 cents higher than the present rates from Delhi. The adjustment of rates to Vicksburg is apparently in keeping with the other, particularly with the proposed rates to Memphis and New Orleans; no protest was made against it; and we find the proposed rates reasonable and proper.

Proposed rates from points on the Vicksburg, Shreveport & Pacific Railway in Louisiana to the Virginia cities, Carolina points, and south Atlantic ports appear also to be properly adjusted, but the proposed rates from these points to Birmingham, Ala., and Columbus, Ga., when compared with the proposed rates from the same points to Atlanta, Ga., seem to be out of line. Rates to Atlanta have not been increased, whereas to Columbus rates have been increased uniformly 2 cents and to Birmingham 5 cents, the result in both instances being that rates to Birmingham and Columbus, as proposed, would be higher than rates to Atlanta. Respondents offer to correct the Birmingham rates and apparently the adjustment to Columbus should also be corrected.

In discussing the proposed rate adjustment we have deferred the consideration of one error. The rate proposed on cotton to be compressed in transit from Shreveport to New Orleans for depot delivery

is 50 cents. Under the normal adjustment of rates as between local delivery and ship-side delivery, or for export, the rate for the latter would be 53 cents. The proposed rate is 52.5 cents, which is the rate on export cotton to New Orleans from Texarkana, Dallas, and other Texas points, and, under the fourth section, can not be exceeded. The respondents have shown that unless the rates from Louisiana points to New Orleans for export exceed the rates to the same place for local delivery by not more than 3 cents injustice to the interior points will result. The converse is true as to rates for export that exceed the local rates by less than 3 cents, and any diminution in this spread is an advantage to the interior points and a disadvantage to New Orleans. To that extent we find that the rates from Shreveport and from other points taking similar rates to New Orleans proper under the proposed adjustment should be reduced in order to preserve the spread of 3 cents. In other words, when the rate for ship side, or for export, is 52.5 cents the rate for depot delivery should not exceed 49.5 cents. If the rate from Shreveport to New Orleans for ship-side delivery can be made 53 cents and still observe the requirements of the fourth section, nothing herein said should be construed as forbidding the change.

Upon consideration of the whole record we are of opinion and find that the adjustment of rates proposed is reasonable and proper, but that because of the many errors, inaccuracies, and omissions the schedules under suspension should be canceled. The respondents may establish on not less than five days' notice rates from points in Louisiana to the interstate destinations here considered, and to New Orleans, interstate or for export, upon bases not higher than those herein found reasonable, and with such modifications of their regulations and practices as we have indicated. An appropriate order will be entered.

46 I. C. C.

No. 8783.
KANSAS CITY & MEMPHIS RAILWAY COMPANY ET AL.
v.
ST. LOUIS & SAN FRANCISCO RAILROAD COMPANY
ET AL.

Submitted December 8, 1916. Decided July 19, 1917.

Defendant's refusal to receive from or deliver to complainant at Fayetteville, Ark., interstate shipments destined to or originating at industries on the former's tracks at that point not found to be in contravention of the act to regulate commerce. Complaint dismissed.

Dick Rice for complainant.

Thomas Bond for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

The complainant, a common carrier, operates wholly in northwest Arkansas. One line of its railroad extends southwesterly from Rogers to Siloam Springs, a distance of 30 miles; another projects southeasterly from Cave Springs, on the line mentioned, to Fayetteville, a distance of 21 miles; and a third extends east from Freeman, a point 2 miles west of Rogers, to Narrows, a distance of 16 miles. It has physical connections with the St. Louis & San Francisco Railroad, hereinafter called the defendant, at both Rogers and Fayetteville, and with the Kansas City Southern Railroad at Siloam Springs.

Prior to March 6, 1916, the defendant refused to interchange any traffic with the complainant except at Rogers. Since the date mentioned, under an order of the state commission of Arkansas, reciprocal switching arrangements have been maintained at Fayetteville on carload shipments having their origin and destination in the state of Arkansas and moving wholly over intrastate routes.

This proceeding was instituted for the purpose of requiring defendant to switch traffic moving from and to interstate points by way of complainant's line to and from Fayetteville.

Considerable evidence is devoted to the question of the adequacy of the present terminal facilities at Fayetteville, and also to the contention made by defendant that there is in fact no permanent connection at that point between the lines concerned, for the reason that

the present connection is maintained by virtue of a contract which may be abrogated by defendant. Our disposition of this case renders a discussion of these issues unnecessary.

The question of through routes and joint rates via Fayetteville was raised for the first time at the argument. Counsel for defendant contends that under the pleadings this question is not at issue, but insists that if we should consider the same the contention is without merit since the establishment of through routes via that point would result in short hauling the defendant, which we could not require in the absence of a showing that the present through routes are unreasonably long. The defendant shows that it now maintains joint rates with complainant by way of Rogers, and that it likewise maintains through routes in connection with the Kansas City Southern, whose line defendant crosses at Westville, Okla., and Gravette, Ark., points located, respectively, 20 miles south and 15 miles north of Siloam Springs. These routes were not shown to be unreasonably long as compared with the routes via complainant's line, and this contention therefore need not be further considered.

At Fayetteville, with a population of about 7,000, 20 industries are local to defendant's tracks; 2 local to complainant's tracks; and 1 is served by both carriers. Defendant's refusal to accept from or deliver to complainant interstate traffic destined to or originating at industries local to defendant's tracks at that point is alleged to be violative of the proviso of section 3 which requires common carriers subject to the act to afford all reasonable, proper, and equal facilities for the interchange of traffic. It was testified by a few shippers located at Fayetteville that defendant's refusal to switch the traffic in question had resulted in loss of business to them and that shipments arriving over complainant's line were more susceptible to damage while being drayed from complainant's freight station at Fayetteville than if they were switched over defendant's rails to such industries. Complainant further contends that defendant by switching intrastate traffic and refusing to perform a like service in connection with interstate traffic unduly prefers the former and subjects the latter to undue prejudice. There is no evidence either that a competitive relation exists between the intrastate and interstate traffic, or that the prejudice arising out of the discrimination is a source of advantage to shippers of intrastate traffic who are alleged to be preferred. In the absence of such evidence we are constrained to hold that there has been shown of record no such undue prejudice as is forbidden by the act.

It is urged on behalf of defendant that in view of the proviso in section 3, that "it shall not be construed as requiring any common carrier to give the use of its tracks or terminal facilities to another

carrier engaged in like business," we are without power to require the switching service prayed.

The question presented was considered in *Louisville Board of Trade v. L. & N. R. R. Co.*, 40 I. C. C., 679, and *I. & S. W. Ry. Co. v. C., B. & Q. R. R. Co.*, 42 I. C. C., 389. In the latter case, the facts of which are strikingly similar to those here involved, we held that we were without authority to require, and that it would be unfair to require if we had that power, the performance of the switching service sought for the reason that it would require the defendant to participate in through routes which would include substantially less than its entire line of railroad between the termini of such routes, and would contravene the proviso of section 8 which protects the carrier which has secured and built up terminals against having those terminals utilized by a competing carrier that has not provided itself with adequate terminals and that desires thus to secure a line haul which the carrier owning the terminals is prepared to perform and which the other carrier can not secure unless it can have the use of the terminals of its competitors.

An order dismissing the complaint will be entered.

HALL, *Chairman*, concurring:

For reasons sufficiently indicated in my separate expression in *I. & S. W. Ry. Co. v. C., B. & Q. R. R. Co.*, 42 I. C. C., 389, at 394, I am constrained to concur.

McCHORD, *Commissioner*, dissents.

43 I. C. C.

No. 8771.
WESTERN STAR MILL COMPANY
v.
UNION PACIFIC RAILROAD COMPANY.

Submitted July 18, 1916. Decided July 7, 1917.

Combination rates applied on shipments of wheat from Beloit, Asherville, and Simpson, Kans., to Kansas City, Mo., for beyond, milled at Salina, Kans., found unreasonable to the extent that they exceeded the through rates contemporaneously in effect from said points of origin to Kansas City, plus 1 cent per 100 pounds for out of line haul. Defendant authorized to waive collection of undercharges.

E. H. Hogueland for complainant.

C. Frankenberger for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of flour and other mill products at Salina, Kans. By complaint, filed April 3, 1916, it alleges that the rates charged by defendant for the transportation to Kansas City, Mo., of numerous carloads of wheat shipped between November 5, 1913, and May 20, 1914, inclusive, from Beloit, Asherville, and Simpson, Kans., to Salina, milled, and the products reshipped through Kansas City to various eastern destinations between May 25, 1914, and June 17, 1914, inclusive, were unreasonable, unjustly discriminatory, unduly prejudicial, and illegal to the extent that they exceeded $13\frac{1}{2}$ cents per 100 pounds. The claim was presented to the Commission informally July 15, 1915. Rates are stated in cents per 100 pounds.

A branch line of defendant extends northwest from Solomon, Kans., through Asherville and Simpson, to Beloit, a distance of 57 miles. Salina is 14 miles directly west of Solomon, on defendant's Denver-Kansas City line, and Solomon is 172 miles west of Kansas City.

The shipments moved over defendant's line from Beloit, Asherville, and Simpson to Salina, through Solomon. The products, flour and bran, moved from Salina through Solomon to Kansas City, destined to points beyond. The movement from Solomon to Salina and return involved an out of line haul of 28 miles.

The rate on wheat, in carloads, from the originating points to Salina was and is 7 cents, and from the same points and Salina to Kansas City, $12\frac{1}{2}$ cents on wheat and flour and 11 cents on bran. At the time the wheat moved, except one carload that moved from Simpson

on May 20, 1914, there was no tariff provision under which wheat shipped from these points to Kansas City could be milled in transit at Salina, except upon the basis of the combination of local rates to and from Salina. Charges were collected at rates of $13\frac{1}{2}$ cents. The combination rates in effect on wheat into Salina and flour out were $19\frac{1}{2}$ cents, and on wheat into the milling point and bran out, 18 cents. Defendant has presented supplemental freight bills which are unpaid, representing the difference between the amounts paid and those which would have accrued at the combination rates.

Effective May 15, 1914, prior to the time the product moved out of Salina, and subsequently to the time the wheat moved into that point, except the one carload above referred to, defendant's transit tariff was amended to permit milling in transit at Salina of wheat from the points of origin in question to Kansas City on basis of the through rates from points of origin to Kansas City plus 1 cent per 100 pounds for the out of line haul. The tariff provided:

Transit rules as shown herein, or as may be amended, will apply on tonnage on hand at the time these rules become effective, on surrender of unexpired representative freight bills or tonnage slips.

Complainant insists that as this wheat was on hand at Salina at the time defendant's tariff was amended as stated, it was entitled to the milling-in-transit service thereon and that the rates legally applicable were the $12\frac{1}{2}$ -cent rates from points of origin to Kansas City, plus 1 cent for the out of line haul.

Defendant states that the tariff provision quoted was established shortly after the Commission's final report in the *Transit Case*, 26 I. C. C., 204, to cover unused tonnage then on hand at transit points. It was eliminated September 15, 1914.

The transit tariff in force at the time of movement of the shipments into Salina provided for transit at Salina and certain other points on wheat originating at points other than those here involved on basis of the through rates from such points to Missouri River points, plus an additional charge, varying according to distance, for out of line haul.

Defendant admits that the combination rates applicable were unreasonable and expresses willingness to waive collection of the undercharges.

We find that the rates applicable were unreasonable to the extent that they exceeded the through rates from points of origin to Kansas City, plus 1 cent per 100 pounds for out of line haul. Defendant is hereby authorized to waive collection of the outstanding undercharges.

As the tariff authorizing transit at Salina on basis of the through rate from points of origin to Missouri River points has been in force for more than two years, no order for the future is necessary.

An order dismissing the complaint will be entered.

No. 8925.

HOUSTON TIE & LUMBER COMPANY

v.

MORGAN'S LOUISIANA & TEXAS RAILROAD & STEAMSHIP
COMPANY ET AL.

Submitted October 10, 1916. Decided July 9, 1917.

Rates on crossties in carloads from points in Louisiana on the Morgan's Louisiana & Texas Railroad & Steamship Company's line to Smithville, Brookshire, and Spring, Tex., found unreasonable to the extent that they exceeded the rates contemporaneously in force on cypress lumber, in carloads, between the same points. Reparation awarded.

M. E. Kurth for complainant.

Gentry Waldo for Morgan's Louisiana & Texas Railroad & Steamship Company, Louisiana Western Railroad Company, and Texas & New Orleans Railroad Company.

L. M. Hogsett for International & Great Northern Railway Company and its receivers, and Missouri, Kansas & Texas Railway Company of Texas and its receivers.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture and sale of railroad ties, with its office at Houston, Tex. By complaint, filed June 2, 1916, it alleges that the rates charged for the transportation of 76 carloads of hewn cypress crossties from points in Louisiana on Morgan's Louisiana & Texas Railroad & Steamship Company's line to Smithville, Brookshire, and Spring, Tex., during the period from October 27, 1913, to April 10, 1915, inclusive, were unreasonable to the extent that they exceeded the rates contemporaneously applicable on cypress lumber. The claim was presented to the Commission informally May 24, 1915. Reparation is asked. Rates are stated in amounts per 100 pounds.

The larger portion of these shipments originated at or near Gibson, La., a point 296 miles east of Houston; the remainder at Lockport, La., 332 miles east of Houston. Twenty-eight carloads moved to Smithville on the Missouri, Kansas & Texas Railway, 115 miles northwest of Houston; 25 to Brookshire on the same railroad, 36 miles northwest of Houston; and 23 to Spring on the International & Great Northern Railway, 23 miles northwest of Houston. The shipments to Smithville and Brookshire were consigned to the Missouri, Kansas & Texas; those to Spring were consigned to the International & Great Northern.

At the time these shipments moved there were in effect to Smithville, Brookshire, and Spring through rates on cypress lumber of 21, 16½, and 17 cents, respectively. The rate to Spring was also applicable on cypress sawed ties. Complainant contends that it was unreasonable to assess charges on the shipments in question in excess of the through rates on cypress lumber contemporaneously in effect. We have repeatedly held that the rate on crossties between given points should not exceed the rate contemporaneously in effect on lumber of the kind of wood from which the crossties are made. The present rates on hewn cypress ties are the same as on cypress lumber.

Complainant stated that in quoting its prices on these ties it relied upon the application of the through cypress lumber rates to hewn cypress ties. From contracts and correspondence filed of record we observe that the ties were sold to the consignee carriers f. o. b. their rails at Houston. Freight charges were to be paid by those carriers and a deduction made from the invoice price of the ties of an amount equal to the proportions accruing to the lines east of Houston on the assumption that joint cypress lumber rates applied on hewn cypress ties. The contracting parties overlooked the nonapplication of the cypress lumber rates on hewn cypress ties destined to the points beyond Houston, and in settlement the consignee carriers, according to their contract provisions, deducted an amount computed upon the local commodity rate of 13½ cents, applicable on hewn cypress ties from the originating points to Houston. The basis upon which complainant asks reparation is the difference between the amount deducted and an amount based on the divisions of the through cypress lumber rates accruing to the lines east of Houston, assuming that the divisions of a through rate on hewn cypress ties would have been the same. We are of opinion, and find, that the rates legally applicable were unreasonable to the extent that they exceeded the rates contemporaneously in force on cypress lumber. We further find that complainant made the shipments as above described and paid and bore charges thereon on the basis of the rate of 13½ cents per 100 pounds applicable to Houston, Tex., and that it has been damaged to the extent that the charges paid and borne by it exceeded the charges that it would have paid and borne had the rates herein found reasonable been in force. The exact amount of reparation due can not be determined upon the present record. Complainant and defendants should accordingly file an agreed statement of the amount of reparation due under our findings herein. Upon receipt of such statement we will consider the entry of an order awarding reparation. As the rate on cypress ties has been brought into harmony with our findings herein, no order for the future is necessary.

No. 9015.
C. F. EWING & COMPANY, LIMITED,
v.
OREGON SHORT LINE RAILROAD COMPANY ET AL.

Submitted November 20, 1916. Decided July 12, 1917.

Defendants' practice of assessing charges on cedar posts on basis of point of origin weights not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

E. M. Fronk for complainant.

F. D. Burroughs for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the lumber business at Sand Point, Idaho. By complaint, filed June 28, 1916, it alleges that the charges collected by defendants on a carload of cedar posts, shipped May 22, 1915, from Tiger, Wash., to Ogden, Utah, based on the track-scale weight obtained at Newport, Wash., about 48 miles from Tiger, were unreasonable and unjustly discriminatory to the extent that they exceeded charges which would have accrued based on a track-scale weight obtained at Ogden, and that a tariff rule of the Oregon Short Line Railroad, the delivering carrier, which provided in substance that lumber originating on other lines which had been weighed by the Trans-Continental Freight Bureau weighing and inspection department would not be weighed by that line, was unreasonable. Reparation is asked and the establishment of a reasonable rule for the future.

The shipment in question was billed as dry cedar posts and moved over defendants' lines. Charges were collected in the sum of \$123.75 at the legally applicable rate of 33 cents per 100 pounds based on a weight of 37,500 pounds. The rate applicable was published in an agency tariff which contained no rules as to weighing, but made reference to tariffs of individual lines for transit and terminal services. There was no track scale at Tiger and the shipment was weighed May 25, 1915, at Newport, on a track scale operated under the jurisdiction of the weighing and inspection department of the Trans-Continental Freight Bureau, with the following result: Gross, 67,700 pounds; stenciled tare, 30,200 pounds; net, 37,500 pounds. This scale was tested on May 19, 1915, by an inspector of the Public

Service Commission of Washington and on June 2, 1915, by an inspector of the Trans-Continental Freight Bureau and found accurate on both occasions. Upon arrival at Ogden on June 4, 1915, the shipment was weighed without instructions from complainant upon a track scale of the Oregon Short Line under the jurisdiction of the Western Weighing & Inspection Bureau, with the following result: Gross, 66,000 pounds; tare, actual, 29,880 pounds; net, 36,100 pounds. Complainant contends that charges should have been assessed upon the latter weight.

Defendants showed that cedar posts are ordinarily subject to shrinkage in weight in transit and that, considering the season of the year, the time which elapsed between the two weighings, and the fact that the shipment moved in a stock car which permitted the free circulation of air, a shrinkage of 1,700 pounds, the difference between the weights obtained at Newport and at Ogden, was not unusual. Instances of materially greater shrinkages were cited. These posts were billed as "dry" but defendants contend that this is a relative term applied by different individuals to lumber of different degrees of dryness, and that it can not be assumed from the mere use of the word that these posts were so dry when shipped as to render further shrinkage impossible. Complainant's witness admitted that cedar posts are subject to shrinkage. He never saw those comprising this shipment and had no personal knowledge of their condition.

We have previously approved the assessing of charges on articles subject to shrinkage in transit on basis of origin weights. On June 9, 1914, we indorsed the National Code of Rules Governing Weighing and Reweighing of Carload Freight, and recommended its application to interstate transportation throughout the country. A rule of that code provides:

Weights of commodities subject to shrinkage in weights from their inherent nature, properly obtained at or near point of origin, should not be changed, except as provided for in the tariffs of the carriers. If obvious error is discovered, each case should be dealt with upon its individual merits, and report made to the originating carrier with all the facts.

On January 15, 1916, a similar rule was incorporated into the tariff carrying the rate applicable to this shipment, and is still in effect.

The rule of the Oregon Short Line under attack was canceled July 23, 1915, since which date the weighing rules of that company have conformed to the National Code of Rules, *supra*.

We find that the allegations of the complainant have not been sustained and an order dismissing the complaint will be entered.

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No. 9139.

FISCHER LIME & CEMENT COMPANY, INCORPORATED,
v.
SOUTHERN RAILWAY COMPANY ET AL

Submitted November 10, 1916. Decided July 11, 1917.

Charges on mixed carloads of portland cement and lime, shipped from Memphis Tenn., to Ripley and Pontotoc, Miss., found to have been legally applicable. Complaint dismissed.

F. R. Thomas for complainant.

Alexander M. Bull for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation dealing in building material at Memphis, Tenn. By complaint, filed September 5, 1916, as amended, it alleges that the charges collected by defendants on two mixed carloads of portland cement and lime shipped from Memphis to Ripley and Pontotoc, Miss., September 22 and 25, 1915, were illegal in that they were collected upon the basis of carload minimum of 40,000 pounds instead of the actual weights of the shipments. Reparation is asked.

The shipment to Ripley consisted of 260 sacks of portland cement, weighing 24,700 pounds, and 50 barrels of lime, weighing 8,600 pounds; the one to Pontotoc consisted of 260 sacks of portland cement, weighing 24,700 pounds, and 10 barrels of lime, weighing 1,720 pounds. They moved over defendants' lines, and freight charges were collected in the sum of \$44 on each at the class N rate of 11 cents per 100 pounds, legally applicable, and a minimum of 40,000 pounds. A demurrage charge of \$3 which accrued during the dispute as to the correctness of the charges on one of these shipments is also in issue.

The sole question presented is one of tariff interpretation. Cement, lime, and plaster, in straight or mixed carloads, was rated class N in note 34 to southern classification I. C. C. No. 20. This note provided no carload minimum for the mixture, but contained the following rule:

Where a carload minimum weight is not provided in these exceptions or shown in tariffs or supplements, governed by this note, in connection with commodity rates on two or more articles in mixed carloads, the minimum weight applicable upon that

article in the mixture which takes the highest carload minimum weight in southern classification No. 41 (I. C. C. No. 20) issued by W. R. Powe, agent, supplements thereto or reissues thereof, will apply.

The minimum provided by the classification on portland cement was 40,000 pounds, and on lime 30,000 pounds. Defendants rely upon this rule as authority for assessing charges upon a minimum of 40,000 pounds.

Complainant insists that the minimum legally applicable to these shipments was 24,000 pounds and advances the following in support of its contention: The class N rate is strictly a class rate and the rule quoted does not apply, as it has reference only to commodity rates. Rule 24 of the classification provides that, "unless otherwise specified in the classification, the minimum carload weight of all articles shall be 24,000 pounds, * * *." No minimum is specified in the classification proper for mixtures of lime and cement, and the minimum provided under rule 24 of the classification therefore controls.

In our opinion the rule quoted provided for the application to these shipments of a carload minimum of 40,000 pounds. Effective December 20, 1915, this rule was amended by eliminating therefrom the word "commodity."

We find that the charges assailed were legally applicable, and an order dismissing the complaint will be entered.

46 I. C. C.

INVESTIGATION AND SUSPENSION DOCKET No. 965.

C. F. A. CLASS SCALE CASE.

FOURTH SECTION APPLICATIONS No. 2072 AND 10800.

Decided July 21, 1917.

Fourth section questions involved in the readjustment of rates in central freight association territory disposed of.

SUPPLEMENTAL REPORT OF THE COMMISSION.

McCHORD, Commissioner:

In our report in *C. F. A. Class Scale Case*, 45 I. C. C., 254, we stated that in connection with the case hearing was had upon applications for continuance of certain existing departures from the long-and-short-haul rule of the fourth section of the act, but that they would be disposed of separately.

Existing departures from the long-and-short-haul rule in C. F. A. territory are protected by Fourth Section Application No. 2072. When the readjustment of rates was under consideration by the carriers the Commission, under Fourth Section Order No. 6111, responsive to an application, No. 10800, gave them temporary relief from the fourth section to enable them to observe the same general method of constructing rates as had been heretofore observed. The departures are of several different kinds. Examples of each have been put before us for determination.

There are proposed to be departures where rates made via the direct line are applied via circuitous routes through points taking higher rates. The rates to the intermediate points are to be made in accordance with the C. F. A. scale and the methods of applying it as approved in our original report. In *Chamber of Commerce of Houston, Tex., v. A., T. & S. F. Ry. Co.*, 44 I. C. C., 349, where a situation was presented similar to that here before us, we granted relief because the same standard of reasonableness was applied in making rates to the intermediate points as to the more distant points. Similar relief will be granted in this case and will apply in connection with rates to and from the basing points used by the carriers or required by our decision, but not when the distance via the circuitous route is unduly great, as compared with the distance via the short route.

In some cases the circuitous route is very much longer than the direct route. For instance the distance via the line of the Pennsylvania Company, the short route, from Fort Wayne, Ind., to Lima, Ohio, is 60 miles and via the Lake Erie & Western 150 miles, or 150 per cent greater. Relief will be denied in this case. Departures can not be countenanced in any case where the carriers via excessively circuitous routes undertake to meet rates of the short routes, and if it later appears that carriers continue rates via such routes in contravention of the fourth section appropriate orders of denial will be entered.

There are also proposed to be departures where the circuitous route runs through a group which carries a higher rate than the group of origin or destination. For instance, the short-line distance from Buffalo, N. Y., to Waukegan, Ill., is computed via Chicago, 544 miles. Waukegan is in the Chicago group as to traffic from Buffalo, and when traffic from Buffalo to Waukegan moves in connection with the Elgin, Joliet & Eastern Railroad, known as the Chicago Outer Belt Line, it passes through higher rate groups which lie west of Chicago. The first-class rate proposed from Buffalo to Waukegan was 51 cents. The highest rate proposed at intermediate points was 58 cents and was found in the Aurora-Elgin group.

From Lansing, Mich., to Mendota, Ill., the direct route is via Chicago. The rates are met via circuitous routes across lake via Milwaukee. The first-class rate proposed was 50.6 cents. The traffic via the circuitous route passes through Janesville and Beloit, Wis., to which points the first-class rate proposed from Lansing was 72.3 cents; also through Waukesha, to which point the first-class rate proposed was 61 cents.

The situations described above wherein the applicant carriers desire to participate in the transportation of freight traffic through high rated groups from or to lower rated groups are similar to those existing on the lines of carriers in the southeast engaged in handling lumber from southern points to the Ohio River, considered in *Fourth Section Application No. 542 et seq.*, 25 I. C. C., 50. In that case some of the carriers originated traffic in one group and transported it on its way to the Ohio River through a group taking higher rates, and asked for permission to continue that practice although it resulted in higher rates from intermediate than from more distant points. We said that that was in essence the case of a circuitous route, and held that in view of the relative reasonableness of the rates involved relief should be granted. On the same principle relief should be granted the applicants in this proceeding. The petitioners will be authorized in those instances where their lines are of such a circuitous character

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as to require the transportation of freight traffic through higher rated groups from or to lower rated points or groups, to continue routing traffic through the higher rated groups, upon condition, however, that the rates from or to the higher rated groups shall not exceed those authorized in our report in *C. F. A. Class Scale Case, supra*, and *The Fifteen Per Cent Case*, 45 I. C. C., 303.

Traffic from Buffalo to Milwaukee via the direct route, 481 miles, passes through zone B via Grand Haven, Mich., and across Lake Michigan, but via the circuitous route, 587 miles, passes through zone C via Ludington. In addition to the greater distance via the zone C route the zone C roads operate in a region of less traffic density. A strict observance of the long-and-short-haul rule would deprive the zone C lines of traffic to Milwaukee or bring about the destruction of the system of rates in zone C. The first-class rate proposed from Buffalo to Milwaukee was 51 cents. The highest first-class rate proposed to any intermediate point was 55 cents.

The rates from Buffalo, N. Y., and Pittsburgh, Pa., to Manitowoc, Kewaunee, and Green Bay, Wis., and other west-bank Lake Michigan ports north of Milwaukee are lower than the rates to Frankfort and Ludington, Mich., points located on the east bank of Lake Michigan. The observance of lower rates at west-bank points from Buffalo and Pittsburgh was brought about because the lines operating routes across the lake made rates to these points with relation to the rail-and-lake rates established by the boat lines from eastern trunk line territory. The boat lines have never operated into or out of east-bank Lake Michigan ports, so that rates to those points have not been affected by the rail-and-water competition. Rates from Buffalo and Pittsburgh to Frankfort and Ludington and various other intermediate points in Michigan are to be based on scale. The petitioners will be allowed to continue rates from Buffalo and Pittsburgh to west-bank Lake Michigan ports lower than to intermediate points via Ludington and Frankfort, upon condition that the rates to said intermediate points shall not exceed those authorized in *C. F. A. Class Scale Case* and *The Fifteen Per Cent Case supra*. The situation eastbound is relatively the same as westbound and relief will be granted on the same conditions.

Petitioners say they will voluntarily eliminate departures resulting from the maintenance of lower rates from points in C. F. A. territory west of the Buffalo-Pittsburgh zone to Manitowoc, Wis., on the west bank of Lake Michigan, than are applied to directly intermediate points in Michigan.

An order will be entered in accordance with our conclusions herein.
46 I. C. C.

No. 8111.
INTERNATIONAL SALT COMPANY OF NEW YORK
v.
SEABOARD AIR LINE RAILWAY ET AL.

Submitted May 5, 1916. Decided July 11, 1917.

Two carloads of salt from Wilmington, N. C., to Florence, S. C., found to have been misrouted. Reparation awarded.

W. T. Chisholm for complainant.
No appearance for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture and sale of salt, with its principal office at New York, N. Y. By complaint, filed June 25, 1915, it alleges that the Seaboard Air Line Railway, hereinafter called the Seaboard, misrouted two carloads of salt shipped in January and February, 1913, from Wilmington, N. C., to Florence, S. C., to complainant's damage in the sum of \$22, drayage and demurrage charges. Reparation is asked. The claim was presented to the Commission informally August 15, 1914.

One of the shipments containing 200 100-pound sacks of salt was forwarded from Wilmington January 17, 1913, consigned to E. J. Pendergrass at Florence. The other, containing 300 200-pound sacks of salt, was forwarded February 7, 1913, consigned to the Phoenix Ice Company at Florence. These shipments were parts of certain cargoes of salt which had been shipped by complainant from New York to Wilmington by water at various times during the year 1912, and which had been unloaded from the vessels and stored in the Seaboard's warehouse at Wilmington awaiting distribution to complainant's customers. The published tariffs of the Seaboard provided for wharfage, handling, between ship side and cars, or between ship side and warehouses located upon the wharf property, and storage at Wilmington of salt and other commodities at certain charges, but did not provide for the handling from warehouse to cars, a service which the Seaboard rendered without charge. The tariffs have since been corrected in this respect. The record affords no basis for determining what would have been a reasonable charge for the services so rendered. Immediately prior to the movement of the

respective shipments complainant's manager at Atlanta, Ga., transmitted written instructions to the agent of the Seaboard at Wilmington to ship the above consignments of salt by way of the Atlantic Coast Line Railroad, hereinafter called the Coast Line. Routing by way of the Coast Line was specified by complainant because the warehouses of the consignees at Florence were located on the rails of that carrier. The Seaboard agent's clerk who made out the bills of lading failed to show thereon routing by way of the Coast Line. The shipments moved by way of the Seaboard through Maxton, N. C., to McBee, S. C., and thence by way of the South Carolina Western Railway, subsequently the Carolina, Atlantic & Western Railway and now a part of the Seaboard, to destination. There was no track connection at Florence between the South Carolina Western and the Coast Line and the consignees drayed the shipments for a distance of about two blocks to their warehouses. The sum of \$22, including \$20 for the drayage of both shipments, and a \$2 demurrage charge at destination on the shipment consigned to the Phoenix Ice Company, was charged back to and ultimately borne by complainant. It is admitted by defendants that \$20 represents a reasonable charge for the drayage.

When the shipments moved, the same rate as that which applied over the route of movement also applied on this traffic from Wilmington to Florence entirely by way of the Coast Line, and by way of the Seaboard in connection with the Coast Line without restriction to specific junction points. The Coast Line would have absorbed the switching charges of the Seaboard at Wilmington, but, under the routing instructions given, the latter carrier was under no obligation to deprive itself of a line haul and to turn over the shipments at that point to its competitor. It appears, however, that complainant's routing instructions could have been complied with had the shipments been delivered by the Seaboard to the Coast Line at Maxton or at some other junction point between those carriers, in which event delivery would have been made direct to the consignees' warehouses and there would have been no necessity for drayage. The record does not afford a sufficient basis for an award of reparation on account of the demurrage charges.

We find that the Seaboard Air Line Railway misrouted the shipments; that complainant was damaged thereby in the amount of the drayage charges; and that it is entitled to reparation from the Seaboard Air Line Railway in the sum of \$20, with interest.

An appropriate order will be entered.

46 I. C. C.

No. 6747.
HIMMELBERGER-HARRISON LUMBER COMPANY
v.
ST. LOUIS & SAN FRANCISCO RAILROAD COMPANY
ET AL.

Submitted December 8, 1916. Decided July 20, 1917.

Former finding that proportional rate of 7 cents per 100 pounds applicable on lumber and lumber products in carloads from Morehouse, Mo., to Thebes, Ill., destined to points in central freight association, trunk line, and other territories, was and for the future would be unreasonable to the extent that it exceeded or might exceed $5\frac{1}{2}$ cents per 100 pounds, affirmed on rehearing.

George B. Webster for complainant.

Thomas Bond for St. Louis & San Francisco Railroad Company.

REPORT OF THE COMMISSION ON REHEARING.

BY THE COMMISSION :

In our original report, 36 I. C. C., 262, we found that the proportional rate of 7 cents per 100 pounds maintained by the St. Louis & San Francisco Railroad, hereinafter called defendant, on lumber and lumber products in carloads, from Morehouse, Mo., to Thebes, Ill., destined to points in central freight association, trunk line, and other territories, was and for the future would be unreasonable to the extent that it exceeded or might exceed $5\frac{1}{2}$ cents per 100 pounds. Reparation was denied. Upon petition of defendant the case was reopened for further hearing. Rates are stated in cents per 100 pounds.

On rehearing defendant again contended that the reasonableness of the Morehouse-Thebes component of the through rates can not properly be determined apart from a consideration of the through rates, and that the rate considered in *Disher Hoop & Lumber Co. v. St. L. & S. F. R. R. Co.*, 26 I. C. C., 488, to which case we referred in disposing of this contention in our original report, was a local rate and consequently might properly be considered as a separately established interstate rate. The rate in that case was considered, not as applied to local shipments, but in respect of its application to through shipments to northern and eastern points. We have never doubted our authority to reduce an excessive proportional rate where we find it to result in an unreasonable through rate. The complaint

names as defendants the carriers beyond Thebes, and alleges that all of the through rates from Morehouse to the stated destinations are unreasonable to the extent that they exceed the proportional rate of 5½ cents from Morehouse to Thebes, plus the applicable proportional rates beyond.

Defendant urges that the reduction in the rate from Morehouse will undoubtedly result in complaints from competing points in southeastern Missouri, and that it threatens the entire rate adjustment in that section. We have repeatedly held that an unreasonable rate may not be permitted to stand merely because if reduced other readjustments might follow.

Defendant shows that complainant, as intervener in *Von Behren Mfg. Co. v. St. L. & S. F. R. R. Co.*, No. 4976, unreported, contended that it was in competition with producers of lumber at Wilson, Ark., and near-by points, and that the rate of 13 cents then in effect from Wilson to Evansville, Ind., discriminated against Morehouse; that since our decision therein the rate from Wilson to Evansville has been increased to 16.4 cents, which increased rate was found justified in *Lumber Rates from Wilson, Ark., to Cincinnati, Ohio*, 35 I. C. C., 179; that, as the present through rate from Morehouse to Evansville is only 14 cents, Morehouse is on a very favorable basis as compared with Wilson; and that, in comparison with the 16.4-cent rate from Wilson to Evansville, the 7-cent rate from Morehouse to Thebes is reasonable. But in our report in the *Von Behren Case* the Wilson-Evansville rate was not mentioned, and neither in that case nor in our original report herein did we make a finding of discrimination or prejudice; and we fail to find in the comparison with the present Wilson-Evansville rate, which, for a haul of approximately 350 miles, earns 9.4 mills per ton-mile, anything tending to establish the reasonableness of the rate assailed.

With respect to defendant's contention, set forth in our former report, relative to the proportional rate of 2½ cents from Cape Girardeau, Mo., to Thebes, it suffices to say that our finding was not controlled by a comparison with that rate. Defendant also refers to the fact that the local Cape Girardeau-Thebes rate has been increased from 4 cents to 6 cents since our original report, and that a like increase in the Chaffee-Thebes rate of 4 cents, prescribed in *Disher Hoop & Lumber Co. v. St. L. & S. F. R. R. Co.*, *supra*, was proposed upon the expiration of our order in that case but was suspended by us. This increased rate from Chaffee was subsequently found not justified. *Hoops from Chaffee, Mo.*, 38 I. C. C., 482. In the latter case it was argued for defendant that the proposed rate was not unreasonable, because it did not exceed the increased local rate of 6 cents from Cape Girardeau, which had not been protested.

But we stated that it did not follow from our findings in the *Disher Case, supra*, that the proposed rate was reasonable merely because it did not exceed the rate from Cape Girardeau, and found that there was no appreciable movement of lumber from Cape Girardeau to Thebes under the local rate.

Comparison is made with intrastate distance scales on lumber in Missouri, Arkansas, Illinois, Oklahoma, and Kansas, the present rate of 5½ cents comparing favorably with the intrastate rates for a corresponding distance over one line, and the rate assailed with those for two-line hauls. The intrastate rates are strictly local rates, while the rate in issue must be considered as a part of the through rates for comparatively long distances.

From an exhibit submitted by defendant showing through rates, constructed with the 7-cent proportional, to numerous destinations, it appears that the ton-mile earnings range from 6.1 mills, under a rate of 23 cents to Minneapolis, Minn., for a distance of 754 miles, to 11 mills under a rate of 15 cents to Terre Haute, Ind., for a distance of 272 miles. The average earnings to 47 representative destinations were 7.9 mills for an average distance of 505 miles.

Defendant urges that the low traffic density per mile on the Leachville subdivision, upon which Morehouse is located, the short haul from Morehouse to Thebes, and the fact that the haul is over the rails of two carriers and across an expensive bridge justify a rate earning 34.1 mills per ton-mile. For the year ending June 30, 1915, only 105,495 tons per mile were hauled on this subdivision. It does not appear that the traffic is handled differently since the change in relationship between the defendant and the Chicago & Eastern Illinois Railroad, but for defendant it is insisted that increased cost has resulted, due to the maintenance of separate executive officials. Granting an increase in general operating costs and a diminished volume of lumber traffic from Morehouse, they do not establish the inadequacy of the present rate.

Defendant's witnesses had no definite information as to the cost of operation over the Thebes bridge. It appears, however, that the cost thereof is not absorbed in the rate from Morehouse to Thebes. At St. Louis, Mo., defendant interchanges traffic with lines reaching all points of destination in controversy, and on traffic through that point receives a much longer haul than on traffic through Thebes. In order to secure a part of the traffic, the Chicago & Eastern Illinois allows defendant to retain the entire rate from Morehouse to Thebes, and is compensated for its haul of 15.6 miles from Chaffee to Thebes, including the bridge haul, out of the rate beyond. It thus appears that for a haul of 25 miles the 5½-cent rate yields defendant 44 mills per ton-mile, while under the 7-cent rate its earnings would be 56

mills. Its rate of 10 cents from Morehouse to St. Louis, 168 miles, yields 11.9 mills per ton-mile. Shipments between these points move through Chaffee.

On the question of reparation the parties merely reiterate their original arguments.

Upon the whole record we adhere to the findings in our original report.

No. 9095.

VULCANITE PORTLAND CEMENT COMPANY ET AL.
v.
CENTRAL RAILROAD COMPANY OF NEW JERSEY
ET AL.

Submitted January 12, 1917. Decided July 18, 1917.

Interstate rate on portland cement, in carloads, from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, Pa., found unreasonable to the extent that it exceeds \$1.16 per net ton. The Pennsylvania Railroad Company required to cease and desist from participating in a transshipment rate from Vulcanite and Cementon to Philadelphia which exceeds by more than 10 cents per net ton the transshipment rate which it contemporaneously maintains from Martin's Creek, Pa.

F. E. Paulson for complainants and Edison Portland Cement Company, intervener.

William L. Kinter and *Frederic L. Ballard* for defendants.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

What is known as the Lehigh cement district embraces parts of the counties of Berks, Lehigh, and Northampton, in the eastern part of the state of Pennsylvania, and a few points in northwestern New Jersey. The carriers serving this district have embraced the numerous cement-producing points in this district in a rate blanket, the rates from all points therein being generally the same to any given destination. The complainants in the present proceeding are the Vulcanite Portland Cement Company, which owns and operates cement mills at Vulcanite, N. J., located on the Central Railroad of New Jersey a short distance east of the Delaware River; and the Whitehall Cement Manufacturing Company, whose cement mills are at Cementon, Pa., located on the line of the Lehigh Valley

Railroad. Both Vulcanite and Cementon are in the Lehigh district. Rates in this report are the carload rates in dollars and cents per net ton.

The complainants allege that the rate of \$1.26 on cement from their mills to Philadelphia, Pa., is unreasonable and that it subjects complainants to undue prejudice and gives an undue preference to complainants' competitor, the Alpha Portland Cement Company, located at Martin's Creek, Pa., on the line of the Pennsylvania Railroad. The local rate from Martin's Creek to Philadelphia is \$1.16, and the transshipment rate 84 cents. The complainants ask that the local rate of \$1.26 from Vulcanite and Cementon to Philadelphia be reduced to \$1.16 and that a transshipment rate of 84 cents be established, thus placing Vulcanite and Cementon on a parity with Martin's Creek, which is also in the Lehigh district.

Prior to February 11, 1909, the rate on portland cement from all points in the Lehigh district to Philadelphia via all routes was \$1.35. On that date the Pennsylvania Railroad published a rate of 80 cents from Martin's Creek to Philadelphia applicable only on cement moving to Philadelphia for transshipment beyond by water, the rate of \$1.35 to Philadelphia being continued from all other points in the Lehigh district both for the local movement and for transshipment. In *Maritime Exchange v. P. R. R. Co.*, 21 I. C. C., 81, we held that the rate of \$1.35 from Martin's Creek to Philadelphia was unreasonable to the extent that it exceeded \$1.10, which rate became effective October 15, 1911. The rates from other points in the Lehigh district were not in issue in that proceeding, and our report and order dealt only with the rate from Martin's Creek. The carriers deemed it inadvisable, however, in view of the material reduction in the rate from Martin's Creek, to maintain a rate of \$1.35 from other points in the Lehigh district, and a "sympathetic" reduction from \$1.35 to \$1.20 was accordingly made in the rates from all the other mill points. Following our supplemental decision in *The Five Per Cent Case*, 32 I. C. C., 325, the rate of \$1.10 from Martin's Creek was increased to \$1.16, the transshipment rate from 80 cents to 84 cents, and the common rate from other points in the Lehigh district from \$1.20 to \$1.26.

Inasmuch as the Central Railroad of New Jersey does not reach Philadelphia, shipments from Vulcanite to Philadelphia are turned over by that carrier to the Pennsylvania Railroad at Phillipsburg, N. J., or to the Philadelphia & Reading Railway at Bethlehem or Allentown, Pa. The distances via these three routes are 88, 71, and 98 miles, respectively, the average being 85.6 miles. Shipments from Cementon are hauled by the Lehigh Valley Railroad to Phillipsburg, thence by the Pennsylvania Railroad to Philadelphia, the distance being 108 miles; or to South Bethlehem, Pa., thence via the Philadel-

phia & Reading, 69 miles; or to East Penn Junction, Pa., thence Philadelphia & Reading, 84 miles. The average distance via these three routes is 87 miles. From Martin's Creek the Pennsylvania reaches Philadelphia with its own rails, the distance being 90 miles. The average distance to Philadelphia from points in the Lehigh district is between 70 and 80 miles.

The rates on cement in trunk line territory are not constructed on any definite principle. That distance has been a comparatively unimportant factor in the determination of rates in this territory is attested by the fact that both the complainants and the defendants have been able to compile rate and distance comparisons which purport to show, on the one hand, that the rate of \$1.26 is "unreasonably high," and, on the other hand, that it is a "depressed" rate. The complainants, for example, submit the following comparison:

Rate per net ton on cement in carloads.

From—	To—	Miles.	Rate.
Vulcanite, N. J.	Philadelphia, Pa.	185.6	\$1.26
Cementon, Pa.	do	187	1.26
Martin's Creek, Pa.	Shamokin, Pa.	261	1.36
Do	Harrisburg, Pa.	150	1.58
Do	Elmira, N. Y.	368	1.62
Universal, Pa.	Erie, Pa.	164	1.26
Do	Baltimore, Md.	335	1.92
Do	Red Bank, Pa.	81	.84
Security, Md.	Baltimore, Md.	108	.79

¹ Average distance, as previously stated.

² Rate assailed in this proceeding.

The comparisons submitted by the defendants, on the other hand, seem to lead to a different conclusion. The following are representative:

Rate per net ton on cement in carloads.

From—	To—	Miles.	Rate.
Vulcanite, N. J.	Philadelphia, Pa.	185.6	\$1.26
Cementon, Pa.	do	187	1.26
Martin's Creek, Pa.	Princeton, N. J.	83	1.58
Do	New Brunswick, N. J.	84	1.42
Do	Woodbury, N. J.	99	1.78
Universal, Pa.	Ashville, Pa.	106	1.48
Do	Foxburg, Pa.	103	1.26
Do	Portage, Pa.	89	1.48
Union Bridge, Md.	Lancaster, Pa.	74	1.48

¹ Average distance, as previously stated.

² Rate assailed in this proceeding.

In 1915 there were manufactured in the Lehigh district more than 24,000,000 barrels of cement, approximately 29 per cent of the total production in the United States in that year. The average loading 46 I. O. O.

of cement in this territory is approximately 68,000 pounds. Based on this average loading and on an average distance of 85.6 miles, the rate of \$1.26 from Vulcanite to Philadelphia yields a revenue of 50 cents per car-mile. The revenue per ton-mile is 14.7 mills. From Cementon the earnings are 49.2 cents per car-mile and 14.5 mills per ton-mile.

In *Maritime Exchange v. P. R. R. Co.*, *supra*, we said, at page 84:

Cement is a commodity which, under every consideration, is entitled to a low rate. It loads easily to the marked capacity of the car and is liable to but little loss or damage in transit.

Inasmuch as the rate under attack in this proceeding applies from a cement-producing district to one of the largest markets, the complainants have compared the rate of \$1.26 with other rates from producing points to important markets. Some of these comparisons, tabulated from information filed of record by the complainants, are as follows:

Rate per net ton on cement in carloads.

From—	To—	Miles.	Rate.
Vulcanite, N. J.	Philadelphia, Pa.	85.6	¹ \$1.26
Cementon, Pa.	do.	87	¹ 1.26
La Salle district, Ill.	Chicago, Ill.	99	.90
Mason City, Iowa.	St. Paul, Minn.	133	1.20
Security, Md.	Baltimore, Md.	² 108	.79
Do.	do.	³ 87	⁴ .62

¹ Rate assailed in this proceeding.

² Via Baltimore & Ohio.

³ Via Western Maryland.

⁴ Applies to only two stations in Baltimore.

The defendants lay emphasis on the fact that at least two carriers must participate in the transportation of cement to Philadelphia from both Vulcanite and Cementon. They call attention to the fact that the rate of \$1.10, now \$1.16, from Martin's Creek to Philadelphia, applied to a one-line haul, and they cite numerous cases in which we have approved somewhat higher rates for transportation over two or three lines than over a single line. They urge that if a rate of \$1.16 is reasonable for the single-line haul from Martin's Creek to Philadelphia, then a rate higher than \$1.16 must necessarily be reasonable for the transportation from other producing points in the same district involving a two-line haul. We can not overlook the fact, however, that not only in this territory but in other territories rates on cement are usually the same for two and three line hauls as for one-line hauls. This is particularly true of the rates from the Lehigh district to Philadelphia, which apply over various routes without regard to the number of carriers participating in the haul.

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The complainants also emphasize the fact, previously mentioned, that the Pennsylvania Railroad publishes a proportional rate of 84 cents from Martin's Creek to Philadelphia applicable on traffic destined beyond by water. The Pennsylvania Railroad also joins in the rate of \$1.26 from Vulcanite and Cementon to Philadelphia, which is the lowest rate available to the complainants in shipping cement to Philadelphia for transshipment. The complainants contend that these rates give an undue preference to the complainants' competitor at Martin's Creek, and that the Pennsylvania Railroad is responsible in law for the undue prejudice sustained by the complainants in this respect.

The defendants contend that the rate of 84 cents from Martin's Creek is a rate maintained by the Pennsylvania Railroad applicable solely to a mill local to its line, and that it is not unlawful for a carrier to maintain from a local point on its line a rate lower than another rate, from a point not on its line, in which it participates. Conceding the correctness of the defendants' contention as a general principle, it is nevertheless unlawful for the Pennsylvania Railroad to participate in a joint rate from Vulcanite and Cementon which is greatly in excess of the rate contemporaneously published from Martin's Creek, and the difference, if any, should be slight. In determining the amount of this difference consideration should be given to the fact that the Lehigh rate group has been constituted by the voluntary action of the carriers, and that rates on cement from mill points in that group are usually the same regardless of the number of carriers participating in the haul.

Upon careful consideration of all the evidence of record we find and conclude that the rate of \$1.26 per net ton on portland cement, in carloads, from Vulcanite and Cementon to Philadelphia is, and for the future will be, unreasonable to the extent that it exceeds \$1.16. We further find and conclude that the Pennsylvania Railroad, in participating in a joint rate on portland cement, in carloads, from Vulcanite and Cementon to Philadelphia for transshipment by water, which exceeds by more than 10 cents per net ton the corresponding rate from Martin's Creek, subjects, and for the future will subject, complainants to undue prejudice.

An appropriate order will be entered.

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No. 5241.
IOWA STATE BOARD OF RAILROAD COMMISSIONERS
v.
ARIZONA EASTERN RAILROAD COMPANY ET AL.

Submitted October 2, 1916. Decided July 18, 1917.

Rates published by certain of the defendants from points in Iowa to points in Kansas on and north of the main line of the Atchison, Topeka & Santa Fe Railway to La Junta, Colo., found not to have been in accordance with the modification of the former order authorized in the supplemental report of the Commission dated June 17, 1915. Defendants required to revise their tariffs in the manner indicated herein.

J. H. Henderson for complainants.

E. G. Wylie for Greater Des Moines Committee.

P. P. Murray for Commercial Club of Omaha.

Wallace T. Hughes for defendants.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

On December 1, 1913, the Commission entered its order in the above-entitled proceeding prescribing a distance scale of class rates for application to traffic from interior points in Iowa to destinations in Kansas on and north of the main line of the Atchison, Topeka & Santa Fe Railway to La Junta, Colo. 28 I. C. C., 563. This distance scale became effective June 1, 1914. Subsequently, it developed that the application of this scale resulted in rates from certain points in Iowa to a number of destinations in Kansas that were lower than the rates from Omaha, Nebr., Kansas City, Mo., and other Missouri River gateways to the same destinations, thus creating departures from the long-and-short-haul rule of the fourth section which would require correction either by reductions in the rates from the Missouri River cities or increases in the rates from the Iowa points. Upon petition for a modification of our order to permit the observance of the rates from Omaha as minima from the Iowa points involved, we said, in our report of June 17, 1915, 34 I. C. C., 379:

The findings of the Commission in the *State of Kansas case*, 27 I. C. C., 673, that the rates from Kansas City to the destinations here involved did not warrant reduction, and the long-sustained adjustment whereby rates are the same from all Missouri River cities, are sufficient to lead to the conclusion that the present rates from Omaha to the Kansas destinations under consideration, which

are now the same as the rates from Kansas City, are not unreasonable. Therefore, to remedy the deviation from the fourth section indicated, we are of the opinion that the order of the Commission in this case should be modified. This modification will authorize the respondents to establish from the points in Iowa in question to points in Kansas upon the main line of the Atchison, Topeka & Santa Fe to La Junta, Colo., and other points in Kansas north thereof, rates not less than those which were in effect upon May 31, 1914—the day before the order became operative—from the Missouri River cities to the same destinations.

Before issuing a formal order modifying our previous order in this case, however, we shall expect the carriers to advise us as to the method of tariff publication which they desire to make in order to render effective the changes in rates herein approved.

* * * * *

The carriers in submitting their proposal as to the method of making tariff publication of the advanced rates here proposed will, of course, see that conformity with our tariff regulations is observed and will submit for our consideration the specific manner in which they propose to publish the rates as to which relief is sought. It is to be understood that in no instance are such specific rates to exceed those in effect immediately prior to May 31, 1914, from the Missouri River cities to the Kansas destinations. It is also expected that the rates to be published will in all respects, except as otherwise herein permitted, conform to the order in this case of December 1, 1913, as amended February 27, 1914.

On February 25, 1916, and March 3, 1916, the defendants filed their tariffs to take effect April 6, 1916, increasing the rates from Iowa points in question to equal the rates in effect May 31, 1914, from Omaha or Kansas City to Kansas destinations. Complaint having been made that these rates apparently had not received our approval, as evidenced by the fact that our original order had not been modified, and also that they were not in conformity in all instances with the modification authorized, this proceeding was reopened June 21, 1916, "in order that the carriers may submit to the Commission the method of tariff publication pursued to render effective the changes in the rates referred to in said supplemental report of June 17, 1915, and in order to determine the propriety of the existing rates of the defendants herein in the territory included within the scope of the Commission's reports heretofore rendered in this case."

It was shown upon the rehearing that prior to the publication of the rates effective on April 6, 1916, the defendants had conferred with the chief of the Commission's division of tariffs relative to the method of tariff publication, and, acting upon the assumption that nothing further was required, had proceeded to file the revised rates to take effect on statutory notice. The method of publication used by defendants provided for the application of specific rates from these interior Iowa points to points in Kansas, based on the rates

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from Omaha or Kansas City in effect May 31, 1914, where those specific rates resulted in higher charges than would obtain under the class scale originally prescribed from the Iowa points to the same destinations. The publication of the higher rates from Iowa was a technical violation of our order of December 1, 1913, due, apparently, to defendants' misinterpretation of the requirements of our supplemental report above referred to. In view of the fact that the original order expired by limitation June 1, 1916, and also that the distance rates therein prescribed were superseded, effective October 25, 1916, by rates equivalent to those prescribed in *The Missouri River-Nebraska Cases*, 40 I. C. C., 201, no further action would appear to be required in this case if the revised rates are in conformity with the modification authorized.

The complainants show that in the revision effective April 6, 1916, certain of the defendants, namely, the Chicago, Rock Island & Pacific and Missouri Pacific railways, published in all instances the rates from Omaha to the Kansas destinations as minima from the Iowa points, and that these rates were higher to certain points in the eastern portion of Kansas than the rates from Kansas City and other lower Missouri River crossings. As an example, they show that the third-class rate from Centerville, Iowa, a point on the Chicago, Rock Island & Pacific Railway, to McPherson, Kans., a distance of 378 miles by way of Kansas City, would be 59 cents per 100 pounds under the distance scale whereas the rate published is the rate of 65 cents from Omaha to McPherson. The distance from Centerville to McPherson by way of the Chicago, Rock Island & Pacific Railway through Omaha is 600 miles. The third-class rate from Kansas City to the same point, in effect May 31, 1914, was lower than the distance rate from Centerville and consequently the latter would have been applicable in the absence of the specific rate on the Omaha basis. The complainants urge that on traffic from Iowa customarily moving through Kansas City the rates should have been based on the rates in effect from Kansas City when lower than the rates from Omaha. A similar showing was made in respect of certain rates from points on the Chicago Great Western Railway to destinations on the Missouri Pacific in Kansas on traffic routed through St. Joseph, Mo.

The purpose of the Commission in authorizing a revision of the distance scale originally prescribed was to correct the deviations from the requirements of the fourth section created by the maintenance of higher rates from the Missouri River crossings through which the traffic from Iowa moved. It was not intended that increases should be made in the scale when no deviation from the fourth section occurred, nor was it contemplated that the scale would

be advanced to equal the maximum rates applying from any of the Missouri River cities. The usual routes between many points in Iowa and Kansas are via the lower crossings and the tariffs should have provided for the application of the rates from those crossings to traffic from Iowa moving via such routes when in excess of the distance rates. In order to avoid fourth section complications these rates should have been restricted in their application to the routes through the lower crossings. The specific rates published to points in Kansas on the Atchison, Topeka & Santa Fe Railway, applying from originating points in Iowa when resulting in higher charges than would accrue under the distance rates, were based on the rates from Kansas City. This is also true of rates to points on the Union Pacific Railroad reached through Kansas City or Leavenworth, Kans., when the rates from the latter points were lower than the rates from Omaha, and a similar basis should have been adopted by all defendants.

To the extent indicated, therefore, the revised rates are not in conformity with the modification authorized. These specific rates are still in effect, although, as stated above, the distance scale has been superseded by the scale prescribed in *The Missouri River-Nebraska Cases, supra*. The defendants should promptly revise their tariffs so as to provide on traffic from the points in Iowa in question to the destinations in Kansas, moving by way of Kansas City and other lower Missouri River crossings, rates not in excess of those in effect from such crossings to the same destinations on May 31, 1914. The defendants should notify us when such revision has been made. If this revision is not accomplished within 60 days from the date of service hereof, the matter should be brought to our attention for such action as may be appropriate.

No. 9094.

ALLENTOWN PORTLAND CEMENT COMPANY ET AL.
v.
MERCHANTS & MINERS TRANSPORTATION COMPANY
ET AL.

Submitted January 12, 1917. Decided July 18, 1917.

Rail-and-water rates on portland cement, in carloads, from Chapman and Evansville, Pa., to Savannah, Ga., and Jacksonville, Fla., found justified. Complaint dismissed.

George W. Aubrey, F. E. Paulson, and W. F. Clark for complainants.

William L. Kinter for Philadelphia & Reading Railway Company.

F. W. Gwathmey for Merchants & Miners Transportation Company.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

The Allentown Portland Cement Company and the Lehigh Portland Cement Company, complainants, own and operate plants for the manufacture of portland cement at Evansville and Chapman, Pa., respectively. These plants, which are served only by the Philadelphia & Reading Railway Company, defendant, are located in what is generally known as the Lehigh cement district, embracing a part of eastern Pennsylvania and western New Jersey. The Philadelphia & Reading publishes from both Evansville and Chapman a joint through rate of \$2.40 to Savannah, Ga., and a joint through rate of \$2.50 to Jacksonville, Fla., applicable via Philadelphia, Pa., and the Merchants & Miners Transportation Company. The Philadelphia & Reading extends directly from Evansville and Chapman to Philadelphia. Rates are stated in amounts per net ton.

One of the complainants' competitors is located at Martin's Creek, Pa., also in the Lehigh district, on the line of the Pennsylvania Railroad, which is not a party to this proceeding. That carrier publishes a proportional rate of 84 cents from Martin's Creek to Philadelphia, and when the complaint was filed the Merchants & Miners Transportation Company published a local and proportional rate of \$1.50 from Philadelphia to both Savannah and Jacksonville, making a combination rate of \$2.34 from Martin's Creek to both destinations. The complainants allege that the rates of \$2.40 and \$2.50 to Savannah and Jacksonville, respectively, are unreasonable and un-

duly prejudicial to the extent that they exceed \$2.34, the combination rate enjoyed by their competitor at Martin's Creek.

Effective September 21, 1916, after the complaint was filed, the Merchant & Miners Transportation Company published an unloading charge of 16 cents at Philadelphia, applicable on cement moving through Philadelphia on combination rates. As the rates from Martin's Creek to Savannah and Jacksonville are constructed by combination on Philadelphia, the imposition of this unloading charge operates to increase the through rate from Martin's Creek from \$2.34 to \$2.50. It does not apply to cement from Evansville or Chapman, which moves under joint rates. Prior to June 15, 1915, the rates from the two producing points here involved to Savannah and Jacksonville were \$2.15 and \$2.30, respectively, of which the Merchants & Miners Transportation Company received \$1.25 and \$1.30, respectively. On that date the rates were increased to \$2.40 and \$2.50 because of a demand by the boat line for a division of \$1.50, its local and proportional rate from Philadelphia. The Philadelphia & Reading receives 90 cents out of the rates to Savannah and \$1 out of the rates to Jacksonville. Both the complainants and the defendants have treated these divisions as factors of the joint rates, and have tested the reasonableness of the joint rates principally by testing separately the reasonableness of the divisions. While this method of gauging the reasonableness of a joint through rate is obviously subject to criticism, we shall consider the evidence as it has been presented to us.

The evidence of record shows that the earning of \$1.50 which the Merchants & Miners Transportation Company receives is not, when separately examined, excessive for the service performed. The old Dominion Steamship Company charges 10½ cents per 100 pounds, or \$2.10 per ton, for transporting cement in carloads from New York, N. Y., to Norfolk, Va., a much shorter haul. The same charge is made by the Clyde Steamship Company from Philadelphia to Norfolk. The Great Lakes Transit Corporation publishes a rate of 10 cents per 100 pounds, or \$2 per ton, on cement from Buffalo, N. Y., to Duluth, Minn., and Chicago, Ill. The rates from Evansville and Chapman are not more than 50 per cent of the rail-and-water sixth-class rate.

The divisions of 90 cents and \$1 which the Philadelphia & Reading receives out of the through rates from Evansville and Chapman are less than the rates on cement for similar distances in the same general territory. The distances from Evansville and Chapman to Philadelphia via the Philadelphia & Reading are 69 miles and 76 miles, respectively. In *Maritime Exchange v. P. R. R. Co.*, 21 I. C. C., 81, we prescribed a rate of \$1.10 on cement in carloads from
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Martin's Creek to Philadelphia, a distance of 90 miles. That rate was increased to \$1.16 following *The Five Per Cent Case*, 32 I. C. C., 325. In *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.*, 46 I. C. C., 483, decided contemporaneously herewith, we prescribed a rate of \$1.16 to Philadelphia from Vulcanite, N. J., and Cementon, Pa., which are also located in the Lehigh district. There is nothing in the record to warrant the conclusion that the Philadelphia & Reading should be required to establish a lower rate to Philadelphia on cement for transshipment than its local rate to that point. Cars containing cement for transshipment are at times subjected to long delays at the port, and the Philadelphia & Reading, to reach the piers of the boat line, must haul its cars a considerable distance through the streets of the city.

The complainant calls attention to the fact, previously noted, that the Pennsylvania Railroad publishes a proportional rate of 84 cents from Martin's Creek to Philadelphia on cement destined beyond by water. It is clear, however, that the Philadelphia & Reading is not responsible for that rate. *Ashland Fire Brick Co. v. S. Ry. Co.*, 22 I. C. C., 115.

The Lehigh Valley Railroad and the Central Railroad of New Jersey publish a transshipment rate of 84 cents from mill points on their lines to Jersey City, N. J., which each of these carriers reaches with its own rails. To enable the producers on its own line to compete with the mills enjoying that rate the Philadelphia & Reading participates in the proportional rate of 84 cents from Evansville and Chapman to Jersey City. It is not shown that that rate operates to the disadvantage of the complainants; on the contrary the complainants use that rate in exporting cement through Jersey City.

The complainants also stress the fact that an all-rail rate of \$2 is published to Savannah and Jacksonville from Rockmart, Ga., Leeds and Ragland, Ala., and Kingsport and Richard City, Tenn., the distances varying from 348 miles to 518 miles; and it is alleged that the maintenance by the defendants of higher rates from the Lehigh district subjects the complainants to undue prejudice. It is clear that the carriers here defendant do not control and are in no wise responsible for the rate of \$2 from these producing points in the south, and in view of the obvious difference in transportation conditions the comparison is not helpful in dealing with the situation here presented.

Upon consideration of all the evidence of record we find and conclude that the through rates in question have been justified, and that they do not subject the complainants to undue prejudice or disadvantage. An order will be entered dismissing the complaint.

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No. 6817.

KANOTEX REFINING COMPANY

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY.

Submitted April 6, 1917. Decided July 13, 1917.

1. The holding in the original report, that it was unlawful for the complainant to bill its oil shipments to a point near the boundary of the state in which they originated, and thence to the ultimate destination in another state, for the purpose of defeating the through interstate rate, reaffirmed.
2. Rates of 38 and 35 cents per 100 pounds on refined petroleum in carloads from Caney and Coffeyville, respectively, both in the state of Kansas, to Woodward, in the state of Oklahoma, found unreasonable to the extent that they exceeded 22.5 cents. Reparation awarded.

O. D. Chamberlin for complainant and intervener.

T. J. Norton for defendant.

REPORT OF THE COMMISSION ON REHEARING.

HARLAN, Commissioner:

In our original report in this proceeding it appeared that the complainant, in order to take advantage on its interstate shipments of the substantially lower level of rates in the state of Kansas, had devised a plan of first billing its refined petroleum to a border point in that state and having it rebilled thence by an agent to the intended destination outside the state. As was there stated (34 I. C. C., 271, 272)—

It was frankly admitted of record that the complainant's cars were billed to Kiowa and then rebilled to Woodward, under the arrangement with Hill, for the sole purpose of securing the transportation to the latter point at a lower aggregate cost than was available under the lawfully published through interstate rate from Caney to Woodward; that Woodward was the intended destination of the shipments, although they were first billed to Kiowa; and that the cars were expected to move to Woodward as a continuous shipment, subject only to the delay incident to the rebilling at the intermediate point. As a matter of fact, the cars were sometimes actually handled from Caney through to Woodward in the same train. There was at Kiowa no transfer of interest, no actual possession taken by Hill, and no constructive possession other than may be involved in the rebilling at Kiowa as described.

We held (*id.*, p. 276) that on such shipments the through interstate rate was applicable and that the practice resorted to by the complain-

ant in evasion of it was unlawful. The point has again been discussed by the complainant in this supplemental hearing although no rehearing on that question was asked by the complainant or requested by the Commission. That feature of the case is therefore no longer formally before us. Nevertheless we have carefully examined the complainant's further suggestions in that connection and find no occasion for modifying our former findings and rulings respecting the practice resorted to by the complainant to avoid the payment of the legally established through rate on its interstate shipments.

The complainant alleged in the former proceeding that the rates on petroleum and its products from Caney and Kiowa, both in the state of Kansas, to Woodward, in the state of Oklahoma, were unreasonable, unjustly discriminatory, and unduly preferential, and reparation was asked. These questions, however, were reserved in the original report because of the general inquiry then pending in *Midcontinent Oil Rates*, 36 I. C. C., 109, respecting the rates from the midcontinent oil fields in Kansas and Oklahoma to various markets. But no testimony was offered or finding made in the latter proceeding respecting the reasonableness of the rates from the Kansas refineries to destinations in Oklahoma, and therefore the petition now before us has been filed by the complainant, asking for a supplemental order in this case establishing reasonable rates from Caney and Kiowa to Woodward and awarding reparation on past shipments. Our attention is also directed by the National Refining Company to its intervening petition in the original proceeding in which it alleged that the rate of 35 cents then in effect from Coffeyville to Woodward was unreasonable to the extent that it exceeded a rate of 11½ cents, reparation being demanded on the latter basis. By a tariff that became effective on January 17, 1917, the rate from both Caney and Coffeyville to Woodward was reduced from 35 cents to 22½ cents. This rate is still in effect but is regarded by the complainant and intervener as unsatisfactory.

Caney and Coffeyville, the two refining points just mentioned, are in the southeastern part of the state of Kansas, near its boundary line. Kiowa is a border town in the central southern portion of the state. Woodward is on the main line of the defendant in the extreme western part of the state of Oklahoma. Coffeyville and Caney are on branch lines of the defendant, and shipments to Woodward from each point move through Cherryvale, 17 miles from Coffeyville and 32 miles from Caney, and thence through Independence and Wellington in the same state. The haul from Caney to Woodward is 268 miles long; but the average distance from the Kansas refining group appears to be about 271 miles. The 35-cent rate from Caney and Coffeyville, and from the other Kansas refining points grouped with

them, that was in effect when the complaint was filed on April 13, 1914, was based on our findings and order in *State of Oklahoma v. C., R. I. & P. Ry. Co.*, 15 I. C. C., 42, decided some eight years ago. We there prescribed rates on petroleum and its products from refining points in the states of Kansas and Missouri to specified points in the state of Oklahoma, not including Woodward; and while the order was literally complied with by the carriers, they did not readjust the rates to all points in Oklahoma. At that time the rate from the Kansas group to Woodward was 38 cents, and this rate was maintained until March 26, 1913, when a general readjustment was made, the Woodward rate being reduced to 35 cents per 100 pounds. The carriers took Independence as a representative point in the refining group and used the 35-cent rate that we had prescribed from Kansas City, in the state of Missouri, to Guthrie, Oklahoma City, Medford, Enid, and other points in the state of Oklahoma, as a basis for determining the rate from the Kansas refineries to Woodward. The approximate average distance for which the 35-cent rate was prescribed is 315 miles; and the defendant argues that if this rate, over main lines carrying a heavy tonnage, was reasonable, certainly a rate of 38 cents, for a haul only 45 miles shorter but over branch lines carrying little traffic and moving to a point in western Oklahoma in and through a sparsely settled country, was not unreasonable at the time it was charged. It is also contended that if, for such a movement, a rate of 38 cents was not unreasonable, the main-line rate of 35 cents could not have been unreasonable from the branch-line points.

The Kansas state rate from Caney to Kiowa is not on file with the Commission, but was and is 9 cents per 100 pounds. Under the western classification petroleum and its products are rated fifth class; and the fifth-class rate from Kiowa to Woodward is 23 cents. Although all the complainant's shipments from Caney were of refined oil, in a number of instances a rate of 8 cents per 100 pounds, applicable on crude oil from Kiowa to Woodward, was charged. However, as all the bills for undercharges on these shipments, based on the application of the through rates, have since been paid by the complainant, presumptively at least, the charges originally collected from Kiowa to Woodward are of no further significance in this proceeding.

A plan for evading the through rate, similar to that discussed in the opening paragraph of this report, was encountered by the carriers engaged in the transportation of petroleum oil from Kansas to points in the state of Colorado; they overcame it by the publication of through rates from Kansas points to Colorado points, made on the basis of the state rate to the last station in Kansas and the local interstate rate beyond, plus 2 cents per 100 pounds. This basis was

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approved in *Mutual Oil Co. v. A., T. & S. F. Ry. Co.*, 38 I. C. C., 591, where it appeared that in order to defeat the through rate of 26 cents between both Coffeyville and Niotaze, in the state of Kansas, and Superior, in the state of Nebraska, the complainant was rebilling his shipments at Webber, the aggregate of the intermediate rates on that Kansas junction being 18½ cents. Reparation was awarded on the basis of a rate of 20½ cents, and this rate was prescribed for the future. The sum of the intermediate rates charged on the shipments involved on the record now before us, plus 2 cents per 100 pounds, would be 34 cents per 100 pounds, and the defendant cites this fact as a further reason for a finding that the 35-cent rate actually assessed was not unreasonable at the time it was charged.

The complainants lay great stress, however, on their contention that the rates fixed in *State of Oklahoma v. C., R. I. & P. Ry. Co.*, *supra*, in the year 1909, were unreasonable as applied to shipments made in 1912 and to and including 1915, because of the vast increase in the production of the midcontinent field. In 1900 the output of that field was less than a million barrels; in 1909 the production had jumped to approximately 50,000,000 barrels, and in 1912 it was in excess of 65,000,000 barrels. The complainant urges that one of the important factors to be considered in the establishment of commodity rates is the volume of the movement, and it argues that at the time the Commission issued its report in the case referred to the midcontinent field was practically in its infancy, the movement being small as compared with the volume of oil now moving. There is nothing of record, however, to indicate whether there has been an increase in the amount of oil moving from Caney or Coffeyville to Woodward. Moreover, as previously observed, the general basis of rates on oil in western classification territory is fifth class; but in numerous instances the carriers, in recognition of the volume of the traffic, have established commodity rates, which in some cases are but 40 per cent of the class rate; and the defendant insists that as the fifth-class rate from Caney to Woodward is 62 cents, the reasonableness of the commodity rates of 38, 35, and 22.5 cents, heretofore mentioned, is indicated by the percentage they bear to the class rate.

The rate on petroleum and its products from points in Oklahoma to Kansas City is, generally speaking, 15 cents; that rate, for instance, applies from Cushing, distant 280 miles from Kansas City. The complainant also cites for comparative purposes the rates on similar commodities from Coffeyville to numerous points in the state of Arkansas, ranging from 19 cents for 164 miles to 38 cents for 474 miles.

The rate of 11.5 cents, which the complainant and intervener pray be fixed as reasonable by this Commission, is that established by legislative enactment of the state of Kansas for a distance of 275 miles.

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The ton-mile and car-mile earnings under this rate are 8.4 mills and 23 cents, respectively. The rates for this distance in the states of Missouri, Oklahoma, and Nebraska are, respectively, 18, 20.7, and 21.77 cents. It is stated of record that the Kansas state scale has been in litigation ever since its enactment and that an application to increase it is now pending before the proper state tribunal. The complainant asserts that because of its enactment by state authority, after investigation, its reasonableness should be presumed.

It was testified on behalf of the complainant that in an informal reparation case the Commission has awarded reparation on shipments of refined petroleum from Coffeyville to Tulsa, in the state of Oklahoma, on the basis of 21 cents per 100 pounds, the rate on crude oil between the same points being 15 cents. In this connection reference is made to distance tariff rates of 15 cents per 100 pounds applicable on crude and fuel oil (1) between points in the state of Oklahoma distant from 260 to 280 miles from each other; (2) from stations on the line of the defendant in that state to stations on its line in Kansas; and (3) from stations in Oklahoma to stations in Arkansas. The complainant asserts, therefore, that the use of a 6-cent differential would fix the rate on petroleum and its products at 21 cents. On the other hand, this testimony seems to indicate that a rate of less than 21 cents would be too low.

The defendant contends that the question of the rate from Kiowa to Woodward is no longer in the case, since the complainant stated at the original hearing that it would not be entitled to an adjudication of the reasonableness of the 23-cent fifth-class rate if the Commission should find that the practice of rebilling to defeat the through rate was illegal. But since that hearing the complainant has established a distributing station at Kiowa and now claims the right to have the question determined. Woodward is about 75 miles beyond Kiowa, and the only statement in the record in respect of the rate is that the Kansas distance tariff rate for that distance should be applied. On this record we are not warranted in finding that the fifth-class rate is unreasonable or unjustly discriminatory.

When this case was first argued, in April, 1915, counsel for the defendant, referring to the rate from Caney to Woodward, said:

We are willing to admit that possibly it is a trifle high * * *. The railroads had under consideration the proposition of seeing if it could be figured out, and, if too high, it could be reduced and what reduction should be made. But it was not until January 17, 1917, nearly two years later, that the rate was reduced to 22.5 cents.

Upon all the facts disclosed of record we find that the rates of 38 cents and 35 cents charged for the transportation of refined petroleum from Caney, and the 35-cent rate charged for the transpor-

tation of the same commodity from Coffeyville to Woodward were unreasonable to the extent that they exceed the present rate of 22.5 cents per 100 pounds. Inasmuch, however, as the latter rate has been in effect for some time, and also as it is involved in a more comprehensive proceeding, No. 9827, *National Petroleum Asso. et al. v. M., K. & T. Ry. et al.*, now pending, no order requiring its maintenance for the future is advisable.

Notwithstanding the point made by the defendant, namely, that since the shipments were sold f. o. b. Caney and Coffeyville the proper parties entitled to reparation are not before the Commission, it is shown of record, and we conclude and find, that the shipments were made by the complainant to itself and by the intervener to itself; that the complainant and the intervener paid and bore the charges thereon; and that as to the shipments delivered at destination within two years prior to the filing of the complaint on April 13, 1914, and as to the shipments delivered at destination within two years prior to the filing of the statement of shipments at the hearing on January 30, 1917, the complainant and intervener have been damaged and are entitled to reparation with interest, to the extent to which they paid charges in excess of 22.5 cents. Certain of the shipments are barred, that of April 5, 1912, and those transported during the period from October 15, 1914, to and including January 12, 1915, the statement of which latter shipments was first filed January 30, 1917.

The exact amount of reparation is not ascertainable from the present record. A statement may be prepared by the parties in interest showing the details of the shipments in accordance with rule V of the Rules of Practice, upon the receipt of which properly verified the entry of an order awarding reparation will have consideration.

No. 3878.
DAVIS BROTHERS LUMBER COMPANY .
v.
CHICAGO, ROCK ISLAND & PACIFIC RAILROAD
COMPANY ET AL.

Submitted November 3, 1916. Decided July 17, 1917.

The complainant's tap line, although incorporated as a common carrier, affirmatively declined to assume that relation to the public, but continued to operate only as a logging road and therefore filed no rates with and made no reports to the Commission. Under these circumstances, *Held*, That there was no similarity in the circumstances and conditions under which the defendants made allowances to other incorporated tap lines sustaining the relationship of common carriers toward the public while at the same time denying allowances to the complainant's tap line, and that there was therefore no unlawful prejudice to the complainant in the practice of the defendants in that regard. Complaint dismissed.

G. F. Thomas for complainant.

Wallace T. Hughes for defendants.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

The complainant, engaged in the manufacture and sale of yellow-pine lumber and its products at Ansley, in Jackson parish, in the state of Louisiana, alleges that it has been subjected to unjust prejudice and disadvantage by the defendant and its connections, hereinafter for convenience called the Rock Island, and that the defendants have unduly favored other manufacturers and shippers of yellow-pine lumber similarly situated and similarly engaged in the same territory.

The discrimination is alleged to have been effected by charging the complainant full tariff rates on its lumber shipments to interstate destinations, while other shippers, with whom the complainant was and is in competition in the lumber markets, contemporaneously received and still receive the so-called tap-line allowances of from 2 to 3 cents per 100 pounds, such payments to them being justified by the Rock Island on the theory that their logging roads are common carriers, having been incorporated by the mill owners and declared by them to be such. The complainant avers that the rates so exacted of it have been unjust, unreasonable, and excessive to the

extent of the allowances made to its competitors; and the prayer of its petition is that the defendant carriers be required to reduce their charges for the transportation of yellow-pine lumber from points in the state of Louisiana, including Ansley, to points in other states by the amount of the tap-line allowances paid to the complainant's competitors in the same territory, and that the defendants be also required to make reparation to the extent of the excess freight so collected from it on all shipments of yellow-pine lumber made by complainant during the years 1907 to 1911, inclusive, and up to April 30, 1912.

The original complaint was filed some years ago and after being amended to conform to the rules of the Commission a hearing was had. Later the complaint was dismissed on the request of the complainant's counsel, but the record was subsequently reopened on representations that the dismissal was without the complainant's authority. The case was finally submitted as indicated. No effort was made to show that the rates complained of were unreasonable *per se*, and the evidence adduced relates only to the complainant's claim for reparation under section 3 of the act.

The Davis Brothers Lumber Company was incorporated in March, 1903, prior to which time its business was conducted under a partnership. The mill was established at Ansley in 1901, and at the same time the construction was commenced of a logging road extending from the mill into the timber, this being completed in 1902. At that time the only rail connection with the mill was the Arkansas Southern, which was taken over by the Rock Island in about 1906 or 1907. The sawmill was 1,800 feet and the planing mill and loading track about 1,200 feet from the rails of the Arkansas Southern. The switch track connecting the mill with the rails of the Arkansas Southern was owned jointly by the Arkansas Southern and the complainant, but it was maintained and operated by the Arkansas Southern and later by the Rock Island. In 1906, shortly after the Rock Island began operations in Louisiana, it entered into contracts with certain connecting incorporated tap lines, under which joint rates and divisions were established. Prior to May 1, 1912, all such divisions were made on the basis of milling-in-transit rates, by which the lumber rate from the mill was extended back to the points on the tap line where the logs originated. During the period prior to May 1, 1912, when the Rock Island was paying divisions to certain incorporated tap lines, there were a number of sawmills along its line in Louisiana that received no divisions either through the proprietary lumber companies or through their affiliated tap lines. After negotiations between the Davis Brothers Lumber Company and the Rock Island the lumber company incorporated its logging road in 1906 or

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1907 as the East & West Louisiana Railroad, this being done, according to the testimony, at the suggestion of the Rock Island as a way to legalize divisions. The Rock Island offered to make a contract with the new line for through rates and divisions on the same basis it had in effect with other tap lines in Louisiana, but the agreement was never executed, the complainant being advised by counsel that the divisions would be unlawful and that by accepting them it would invite severe penalties. Therefore a tariff prepared by the Rock Island on the basis of the proposed contract was not made effective. The East & West Louisiana continued to operate as a logging road and did not hold itself out to be a common carrier in the transportation of freight and passengers for the public generally. It carried no mail or express and has never filed tariffs, annual reports, or otherwise complied with the requirements of the Commission. The railway property is assessed by the state authorities as a part of the mill property and appears of record not to be regarded by the state authorities as a common carrier. It has never exercised the right of eminent domain. It is to be noted also, as stated, that the East & West Louisiana did not switch manufactured lumber from the complainant's mill to the Rock Island, this service being performed by the latter company.

All these facts must be borne in mind when considering the complainant's demand for reparation. Its claim is indeed in harmony with the general principles announced and the findings made by the Commission in its original report in *The Tap Line Case*, 23 I. C. C., 277. Referring to the complainant and its tap line, we there said (p. 284):

This difference in treatment by carriers of lumber companies owning incorporated tap lines is one form of discrimination growing out of tap-line allowances. But there are also other forms. There is the discrimination involved in the payment of allowances to one lumber company through its incorporated line, while the same public carrier in the same territory refuses to make any allowance to another lumber company using a tap line that has not been incorporated, but where all the other conditions, as well as the extent of the service, the mileage, motive power, cost of operation, etc., are substantially similar. An instance of this kind is before us upon formal complaint in Docket No. 3878. This proceeding was brought by the Davis Brothers Lumber Company against the Chicago, Rock Island & Pacific Railway Company and other carriers. The complainant company was included in our general investigation and the conditions under which it conducts its lumbering operations are shown of record and are explained upon its complaint. It appears that its plant and yearly output are much more extensive than those of many other lumber companies that are receiving allowances. It has 16 miles of tap line and 5 miles of logging spurs. It operates 4 locomotives and uses 40 logging cars. It has a small amount of traffic for outsiders, a claim that can not be advanced by many of the incorporated tap lines that are receiving allowances. In its complaint it points out that all the lumber companies in this territory have long used logging cars

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to haul logs from their adjacent forests to their mills, and that these facilities have, until recent years, been regarded as mere adjuncts to their plants; that the Rock Island, on the pretense that tap lines become common carriers when incorporated, is making allowances to the competitors of the complainant ranging from 2 to 8 cents per 100 pounds and even higher, while refusing such aid to the complainant, which uses and always has used a logging road of the same kind, for the same purpose, and which it has operated at the same proportionate expense. A striking allegation in the complaint is that the Rock Island has offered to pay the complainant similar allowances if it should go through the form of incorporating its logging road as a common carrier, a device which the complainant regards as a mere evasion of the act, and to which it has therefore declined to resort.

Elsewhere in the same report we commented at some length upon the unlawful discrimination resulting from the allowances paid to certain of the tap lines while the trunk lines were at the same time denying allowances out of their rates to other tap lines. We found that with but few exceptions none of the tap lines that were parties to that proceeding could be regarded as a common carrier, but that all were plant facilities; and we therefore held that the payment of any allowances to them by the connecting trunk lines out of the trunk line rates from the junction was unlawful. These findings and conclusions are the basis of the complainant's demand for reparation in this proceeding. But the whole tap-line question later went to the Supreme Court of the United States and in *The Tap Line Cases*, 284 U. S., 1, the conclusions and findings of the Commission were reversed, and principles were laid down by the court under which the Commission in its second supplemental report in *The Tap Line Case*, 31 I. C. C., 490, subsequently fixed the maximum divisions that may lawfully be paid to the tap lines named therein, which were there found to be common carriers under the test applied by the court in the case just cited. Briefly stated, the underlying principle announced by the court in that case was that the tap lines, when incorporated under state authority as common carriers and holding themselves out to the public as common carriers, were not devices, as the Commission had held, to secure unlawful advantages for the proprietary lumber companies, but in fact and in law sustained the relation of common carriers toward the public; and inasmuch as this entire territory was blanketed under a common rate the tap lines, in hauling the manufactured lumber from their respective mills to their junctions with the trunk lines, were performing a common-carrier service for which they were entitled to reasonable compensation out of the trunk line rate in accordance with the service performed by them. On this general basis the adjustment now in effect throughout the territory in question has been fixed by the Commission. It does not appear, however, from the record before us that

the Rock Island at any time paid allowances to any tap line, whether incorporated or unincorporated, that did not claim to be a common carrier and hold itself out to the public as such. The East & West Louisiana, owned by the complainant, although incorporated as a common carrier, never assumed this attitude toward the public, but continued to operate only as a logging road, and, as we have seen, never filed tariffs with the Commission or made any reports to it, or pretended in any other form to be a common carrier. On the contrary, it affirmatively declined to do so, on the theory that this would be a mere device to defeat the law.

Under these circumstances and in conformity with our understanding of the ruling of the Supreme Court of the United States in the case cited, we find no similarity in the circumstances and conditions under which the Rock Island made allowances to certain tap lines in this general territory while denying allowances out of its rate to the complainant or to the complainant's tap line. There was therefore no unlawful prejudice to the complainant in the defendant railroads' attitude toward it as described of record, and the complainant has no legal demand against the defendants for damages. The complaint must therefore be dismissed, and such an order will be entered.

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No. 8867.
DELAWARE, LACKAWANNA & WESTERN COAL COMPANY
v.
DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY.

Submitted January 5, 1917. Decided July 13, 1917.

Where a wide readjustment, involving both increases and reductions, results from an investigation of a general rate structure and it appears that substantial justice would not be advanced by an award of reparation, the Commission in many cases has denied such claims. Applying that principle to the facts shown of record here, and giving due consideration also to the relationship between the complainant and the defendant as disclosed by the evidence, reparation is denied on the complainant's shipments of anthracite coal from the Wyoming fields, in the state of Pennsylvania, to tidewater and other points, and the complaint is dismissed.

Wilbur L. Ball for complainant.
J. L. Seager for defendant.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

Under its order of June 10, 1912, the Commission entered upon and subsequently completed a general investigation of the rates, practices, rules, and regulations governing the transportation of anthracite coal from the Wyoming, Lehigh, and Schuylkill regions, in the state of Pennsylvania, to tidewater and to interior points on the lines of the initial anthracite carriers; and in *Rates for Transportation of Anthracite Coal*, 35 I. C. C., 220, hereinafter referred to as the *Anthracite Case*, the rates then in effect to various points were found to be unreasonable, the respondents being required to fix for the future the reasonable maximum rates there prescribed. The report was issued on July 30, 1915, but the rate readjustment required by it did not become effective until April 1, 1916, and our findings did not therefore become operative until the latter date.

In the complaint here before us, filed on May 9, 1916, it is alleged that during the period from May 1, 1914, to April 1, 1916, the complainant made numerous shipments over the defendant's rails from the Wyoming district to tidewater under the rates found to be unreasonable in the *Anthracite Case*. It now asks reparation on these shipments in the amount of approximately \$800,000, based on

the difference between the rates actually paid and the charges that would have been paid had the rates subsequently fixed by the Commission been effective when the shipments moved. The defendant admits that the transportation conditions disclosed in the general investigation prevailed throughout the period just mentioned.

The anthracite investigation, the record of which is made a part of this record, was quite general in character. The testimony showed not only that the practices of the carriers and their affiliated coal companies were unlawful, but that the railroad companies and the coal companies were so closely associated with each other through common stock ownership as to create conditions obviously contrary to the public interest. Those relations were condemned and the unlawful concessions made by the railroads to the coal companies with which they were thus affiliated were discussed at some length. Id., 239, 250.

The rates on coal from the Pennsylvania anthracite fields to practically all destinations in official classification territory have been thoroughly revised during the past two years. Most of the reductions were the result of our conclusions in the *Anthracite Case*, but many increases were also made as a result of the findings and order in that case, particularly in the rates on the smaller sizes of anthracite coal. In *Anthracite Coal Rates to Chicago, Ill., and Other Points*, 35 I. C. C., 702, we approved certain increased rates from the Pennsylvania mines to Chicago, Peoria, and St. Louis, and a number of other points. That proceeding, as the report shows, was virtually a part of the *Anthracite Case*, and the two cases were decided on the same date. In the thought that it might be helpful to have some general impression as to the nature and the extent of the readjustment of rates to various points that followed in consequence of the two decisions, a careful study has been made by the Commission's tariff division of the changes in rates on the various sizes of anthracite coal from the Pennsylvania fields to practically all points in official classification territory and to a number of Canadian points shown in the same tariffs. Most of the changes became effective after the cases above referred to were submitted. In making this study all the tariffs embraced in the two proceedings were examined, together with all the tariffs showing through rates from the Pennsylvania mines to points in official classification territory, under which the Delaware, Lackawanna & Western is the originating line, whether the tariffs were published by that carrier or by others. The result appears on the following table:

Table showing number of increases and reductions during the last two years in the rates on anthracite coal from the anthracite region in the state of Pennsylvania to the territory designated.

To—	Increases.				Reductions.			
	Prepared sizes.	Pea.	Buckwheat No. 1.	Smaller sizes.	Prepared sizes.	Pea.	Buckwheat No. 1.	Smaller sizes.
Chicago, Peoria, etc. ¹	101	84	.....	.....	.....	.....	.....	.....
Tidewater points ²	354	265	767	1,107	1,534	1,524	825	906
New England and Canada ³	1,179	1,175	.....	4,051	1,412	1,726	.....	4,871

Total increases, 9,173. Total reductions, 12,858.

¹ These increases resulted from our approval of the rates proposed in *Anthracite Coal Rates to Chicago, Ill., and Other Points, supra*. The increases shown under "Pea" include those for the smaller sizes. These figures do not include the changes made by the Pennsylvania to points in central freight association territory effective Dec. 20, 1915. Those changes, principally reductions, apparently had no connection with the two cases referred to in the text.

² Includes also many local points in trunk line territory.

³ Includes also many points in trunk line territory not embraced in the preceding item.

⁴ Includes buckwheat Nos. 1, 2, 3, and bird's-eye.

The table has been prepared with care, and its general accuracy may therefore be presumed; but its exact significance can not be determined without investigating the tonnage moving under each of the rates in question; an increase in the rate to Chicago, for example, or a reduction in the tidewater rate to New York harbor would probably be of greater importance than a hundred changes to points where the consumption of coal is small. Both the increases and reductions, however, include many rates under which a heavy tonnage moves. But in any event the rate increases have been large in number and the tonnage affected thereby substantial; allowing a liberal margin for errors in the figures gathered, the table shows how general in character the readjustment was and indicates clearly that a fair solution of the question presented for determination in this proceeding can not be reached by giving consideration only to the reductions in rates that followed upon the report in the *Anthracite Case*.

An award of reparation is not infrequently withheld in cases where a wide readjustment of rates has been made as the result of the Commission's findings in a general investigation. In such instances the revision is intended to bring the entire future rate structure into closer approximation and harmony with the conditions surrounding the service. Thereafter some of the shippers must pay higher rates while others will enjoy lower rates. Although, in connection with such a readjustment the law affords no remedy to the carrier with respect to shipments in the past under rates that may have been too low, it not infrequently happens that some of the shippers, who are to have lower rates for the future, demand reparation on their past shipments on the theory that the rates under which they moved were too high.

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The situation before us here is illustrative. During the period for which the complainant is seeking reparation it shipped 3,164,946.05 tons of coal at rates lower than those established after our findings and order in the *Anthracite Case* were announced; the complainant paid in freight charges on those shipments \$394,512.84 less than it would have paid if the present rates had been in effect when the shipments moved. There is no provision of law permitting the set-off of this sum against the amount of reparation sought by the complainant, and this fact, of course, is not determinative of the complainant's claim. Nevertheless, the figures are of interest as indicating the general nature and effect of the readjustment. When such a revision results from our findings, all the shippers under the schedule are affected either one way or another by the changes made, and as the readjustment is general, it has been thought, under the particular circumstances appearing in various cases that have come before us, that substantial justice would not be advanced by awards of reparation to those making such demands. This course, in the light of the facts developed in those cases, seems to have been within the spirit and the meaning of those provisions of the act that relate to reparation; and in the public interest an order requiring a revision of a general rate structure ought not to be embarrassed and complicated by awards of reparation, as a necessary consequence of such a revision, unless from all the circumstances and facts surrounding the service and the traffic, as they are disclosed upon the record, the Commission feels that essential justice requires such awards. In *Rates on Bituminous Coal*, 36 I. C. C., 401, 428, we said:

Reparation is asked by complainants in many of these cases. However, in such an extensive readjustment of rates as that here involved, and following the principles announced in *Appalachia Lumber case*, 25 I. C. C., 193, 197, and *Anadarko Cotton Oil Co. v. A., T. & S. F. Ry. Co.*, 20 I. C. C., 43, we are of opinion that reparation should not be awarded.

To the same effect were *Memphis Freight Bureau v. I. C. R. R. Co.*, 27 I. C. C., 507; *Rates on Bananas from Gulf Ports*, 30 I. C. C., 510; *Royster Guano Co. v. A. C. L. R. R. Co.*, 31 I. C. C., 458; *Midcontinent Oil Rates*, 36 I. C. C., 109; *Oklahoma Traffic Asso. v. A. & S. Ry. Co.*, 36 I. C. C., 329; *The Missouri River-Nebraska Cases*, 40 I. C. C., 201; and *Cudahy Packing Co. v. A., T. & S. F. Ry. Co.*, 42 I. C. C., 579.

The record shows that when the shipments in question moved the complainant was, and that it still is, a subsidiary of the defendant, and that the defendant has endeavored in various ways, both lawful and unlawful, to give preferences and advantages to the complainant. The payment of freight charges by the complainant to the defendant seems to have been largely the transfer of money from one
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pocket to another. That fact, however, does not simplify or aid the complainant's demand for an order of reparation. Moreover, an award of damages in the present proceeding, from some points of view, would simply be an extension, under our authority and with our approval, of the practices condemned in the *Anthracite Case*.

Upon all the evidence of record both in the present case and in the general investigation we find and conclude that the complainant is not entitled to reparation, and an order will be entered dismissing the complaint.

No. 8981.

EARLE FRUIT COMPANY

v.

OREGON SHORT LINE RAILROAD COMPANY ET AL.

Submitted December 1, 1916. Decided July 12, 1917.

Rate on fresh prunes in carloads shipped from Emmett, Idaho, to Chicago, Ill., and reconsigned to Liberal, Kans., and subsequently reconsigned to Greensburg, Kans., and later to Pratt, Kans., found to have been unreasonable. Reparation awarded.

H. W. Adams for complainant.

James Warrack for defendants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the fruit business, with its principal office at Sacramento, Cal. By complaint, filed May 31, 1916, it alleges that defendants' rate of \$2.13 per 100 pounds on a carload of fresh prunes, shipped August 31, 1914, from Emmett, Idaho, to Chicago, Ill., and reconsigned to Liberal, Kans., was unreasonable to the extent that it exceeded 90 cents per 100 pounds. Reparation is asked. Rates are stated in amounts per 100 pounds.

The shipment, weighing 26,000 pounds, was consigned to complainant at Chicago, and moved, August 31, 1914, from Emmett over the Oregon Short Line Railroad, routed by the shipper by way of the Union Pacific Railroad and Chicago & North Western Railway. On September 3, 1914, a reconsigning order was filed by complainant with the Pacific Fruit Express Company at Sacramento, directing

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that the destination of this shipment be changed to Liberal and specifying routing by way of Oregon Short Line, Union Pacific, Colorado & Southern, and Fort Worth & Denver City railways, to Dalhart, Tex., and Chicago, Rock Island & Pacific Railway to Liberal. The following proviso was inserted in this order:

We desire to make the below-mentioned change in consignee, destination, and routing of this shipment of green fruit subject to "reconsignment rules" of carriers; provided, the through rate of freight will apply from point of origin to destination as changed.

It appears that the shipment was subsequently reconsigned to Greensburg, Kans., and later to Pratt, Kans., both points on the Chicago, Rock Island & Pacific, and moved in accordance with complainant's routing instructions to Liberal; thence over the Chicago, Rock Island & Pacific, by way of Greensburg, to Pratt. Transportation charges were collected in the sum of \$553.80 at the combination rate of \$2.13 legally applicable over the route of movement, composed of a rate of \$1.06 from Emmett to Dalhart and a rate of \$1.07 from Dalhart to Pratt. At the time of movement a joint rate of 90 cents was maintained from Emmett to both Liberal and Pratt by way of the Oregon Short Line, Union Pacific, and Chicago, Rock Island & Pacific, which rate would have applied to this shipment as reconsigned to Liberal if it had moved over that route; but the subsequent reconsignments could not have been accomplished at the joint rate.

Complainant contends that by reason of the instructions contained in its reconsigning order, above quoted, it was the duty of the carriers to have called attention to the fact that reconsignment over the routes specified could not be effected at the joint rate and to have obtained further instructions. The language used in the reconsigning order made it conditional upon the application of the joint rate via the route specified.

We have held that where a shipper tenders a bill of lading containing routing instructions and a specific rate, and the rate does not apply via the route designated, it is the duty of the carrier's agent to call shipper's attention to the fact that the rate specified can not be accorded via the route designated and to secure further instructions. *Conf. Rule 286 (f)*. If this course had been pursued in this case the shipper would have had opportunity to direct routing for which he would have been responsible.

The route over which this shipment moved was 1,420 miles in length. The distance from Emmett to Liberal via the route over which the 90-cent rate above referred to applied, was 1,769 miles. Since this shipment moved defendants have established the rate of 90 cents to Liberal via the route of movement. As stated, the subsequent reconsignments from Liberal and from Greensburg could not have been accorded under the joint rate.

We find that the rate charged was unreasonable to the extent that it exceeded a rate of 90 cents from Emmett to Liberal, plus the lawful charges for the movements from Liberal to Greensburg and from Greensburg to Pratt; that the complainant made the shipment as described and paid and bore the charges thereon at the rate herein found unreasonable; that it was damaged thereby and is entitled to reparation in the difference between the rate charged and the rate herein found reasonable. The exact amount of reparation due can not be determined upon the present record. Complainant should prepare a statement showing the details of the shipment in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we will consider the entry of an order awarding reparation. As the 90-cent rate to Liberal has been in effect via the route of movement for more than two years no order for the future is necessary.

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No. 8801.

E. J. HECKLE

v.

CHICAGO, BURLINGTON & QUINCY RAILROAD
COMPANY.

Submitted February 21, 1917. Decided July 11, 1917.

A joint rate applicable to sewer pipe from Deepwater, Mo., to Elliott, Iowa, found to have been unlawfully established and to have been unreasonable. Reparation awarded.

E. J. Heckle for complainant in person.

W. D. Wells for intervener.

Kenneth L. Burgess for defendant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a resident of Kansas City, Mo. By complaint, filed March 6, 1916, he alleges that a rate of 15.5 cents per 100 pounds charged by defendant on eight carloads of sewer pipe from Kansas City to Elliott, Iowa, in July and November, 1915, was excessive and unreasonable. Reparation is asked. At the hearing the consignor, Walter S. Dickey, intervened, claiming whatever reparation might be found due. Rates are stated in cents per 100 pounds.

The shipments originated at Deepwater, Mo., and moved over the Kansas City, Clinton & Springfield Railway to Olathe, Kans., St. Louis-San Francisco Railway to Kansas City, and thence over the Chicago, Burlington & Quincy Railroad through Hamburg and Shenandoah, Iowa, to Elliott. The Kansas City, Clinton & Springfield and the St. Louis-San Francisco were not made parties defendant.

Complainant showed that at the time the shipments in controversy moved there was in effect a joint rate of 15.5 cents over the route of movement, which was the rate applied; that there was contemporaneously in effect over the same route a combination rate of 15 cents, composed of a rate of 5 cents from Deepwater to Kansas City and a rate of 10 cents thence to destination; that a combination rate of 13.4 cents was in effect over another route, over which the joint rate of 15.5 cents was likewise applicable, composed of a rate of 9.5 cents from Deepwater to Pacific Junction, Iowa, and a rate of 3.9 cents thence to Elliott; and that on November 9, 1915, subsequently to the

movement of the shipments in question, a joint rate of 13.4 cents was established on this traffic over the route of movement. These violations of the fourth section of the act were not protected by appropriate applications. The joint rates were therefore unlawfully established. Witness for defendant testified that at the time the complaint was filed it was preparing an application for permission to pay reparation to intervener on the basis of the 13.4-cent rate.

At the conclusion of complainant's evidence defendant moved that the complaint be dismissed on the ground that there was a variance between the allegations of the complaint and the proof submitted, and on the further ground that the Kansas City, Clinton & Springfield and the St. Louis-San Francisco were necessary parties defendant and had not been joined. The record discloses that defendant was not prejudiced by reason of the variance between the complaint and the proof submitted. Inasmuch as the joint rate was, under the terms of the act, unlawfully established, each and every participating carrier was jointly and severally liable for any damage resulting from its application.

We find that the rate charged was unlawfully established and that it was unreasonable to the extent that it exceeded 13.4 cents per 100 pounds. The material in question was sold by intervener at a fixed price f. o. b. intervener's factory, "with full freight allowed." Complainant paid the freight charges at destination but received credit for same on the intervener's invoices, except as to one shipment. The excepted shipment weighed 12,100 pounds. The minimum was 26,000 pounds, and intervener deducted from the invoice price only \$18.75 for freight, which amount is equal to what would have accrued at the rate applied and actual weight, complainant bearing the balance of the charges, \$21.55. The intervener therefore paid and bore freight charges in the sum of \$320.56 and the complainant in the sum of \$21.55. We further find that the shipments were made as described; that the charges were paid and borne by complainant and intervener as above set forth; and that complainant and intervener have been damaged and are entitled to reparation, complainant in the sum of \$2.92, with interest, and intervener in the sum of \$43.72, with interest. The Kansas City, Clinton & Springfield Railway and the St. Louis-San Francisco Railway, which participated in the transportation, may join in the reparation herein awarded.

An order of reparation will be entered, but as the present rate has been in effect since November 9, 1915, no order for the future is necessary.

No. 8891.

HARRISON BROTHERS & COMPANY, INCORPORATED,
v.
LOUISVILLE & NASHVILLE RAILROAD COMPANY ET AL.

PORTION OF FOURTH SECTION APPLICATION No. 1952.

Submitted September 9, 1916. Decided July 17, 1917.

1. Sixth-class rate on crude barytes in carloads from Lexington, Ky., to Philadelphia, Pa., found to be unreasonable and reparation awarded.
2. Fourth section relief denied.

Edwin F. Sellers for complainant.

Joseph G. Kerr, jr., for Louisville & Nashville Railroad Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Complainant is a corporation engaged in the manufacture of paint, colors, varnish, white lead, and chemicals at Philadelphia, Pa. By complaint, filed May 23, 1916, it alleges that a rate of 23 cents per 100 pounds charged by defendants on two carloads of crude barytes, shipped from Lexington, Ky., to Philadelphia, September 17 and 19, 1914, was unreasonable. Reparation is asked. That portion of Fourth Section Application No. 1952, filed by the Louisville & Nashville Railroad Company, in which the carriers named as parties thereto seek authority to continue to charge for the transportation of crude barytes in carloads from Lexington to Philadelphia, rates which are lower than the rates contemporaneously maintained on like traffic from intermediate points, was heard with the complaint. Rates are stated in cents per 100 pounds.

The shipments, aggregating 126,400 pounds, moved over the Louisville & Nashville from Lexington to Cincinnati, Ohio, and the lines of the Pennsylvania system beyond, 759 miles. Charges were collected in the total sum of \$290.72 at a joint sixth-class rate of 23 cents, minimum 40,000 pounds, legally applicable.

Crude barytes is worth from \$3.50 to \$3.75 per ton at the mines. The crude ore is ground fine to make cheap paint pigment and lithopone, which is used by manufacturers of window curtains and linoleum. It is mined in the vicinity of Lexington and Nicholasville, Ky. For some years most of the output had been shipped from
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the mines to Nicholasville to be manufactured into a powdered form and reshipped to various points, including Philadelphia. Nicholasville is served by two roads, the Louisville & Nashville and the Cincinnati, New Orleans & Texas Pacific Railway, hereinafter called the Queen & Crescent. As early as August, 1909, the Queen & Crescent published commodity rates of 15 cents on crude barytes to Philadelphia from the principal producing points on its line, including Brannon, Danville, Donerail, and Greendale, Ky., and of 15½ cents on manufactured barytes from Nicholasville. Brannon and Danville are south of Lexington, and Donerail and Greendale north of that point, on the Queen & Crescent's main line to Cincinnati. With the exception of Nicholasville, these points are not served by the Louisville & Nashville. In November, 1909, the Louisville & Nashville published a rate of 15½ cents on barytes from Nicholasville, the same as that applicable over the Queen & Crescent. No crude barytes was moving over its rails.

The supply from Germany ceased with the outbreak of the European war in August, 1914, and a sudden demand for the Kentucky ore arose. In the following month when these shipments moved, no commodity rates applied on crude barytes from Lexington over either the Louisville & Nashville or the Queen & Crescent. Effective September 30, 1914, upon four days' notice, under rule 77 of Tariff Circular 18-A, the Queen & Crescent published a commodity rate of 15 cents, minimum 60,000 pounds, from Lexington. Complainant's request to the Louisville & Nashville for the publication of the same rate was made after these shipments moved. On November 1, 1914, the latter carrier also published a rate of 15 cents, minimum 60,000 pounds, from Lexington.

The 15-cent rate, now increased to 15.4 cents, yielded 3.95 mills per ton-mile and, on an average shipment of 63,200 pounds, 12.5 cents per car-mile. The 23-cent sixth-class rate yielded 6 mills per ton-mile and, on the same average shipment, 19.2 cents per car-mile. The Louisville & Nashville, for itself and its connections, has admitted that the latter rate was unreasonable under the conditions surrounding the traffic and is willing to submit to an award of reparation on the basis of the subsequently established commodity rate of 15 cents. In that connection, as should be noted, it concedes that one of its reasons for publishing the 15-cent rate from Lexington to Philadelphia was the fact that this was the rate of the Queen & Crescent between those points. A reduction to meet the rate of a competing line is not ordinarily accepted, however, as being sufficient when standing alone to justify an award of reparation. But other facts are shown of record tending to qualify the 23-cent class rate exacted on the shipments described of record as being higher

than the transportation conditions warranted. In the first place, the experience both of the Queen & Crescent and of the Louisville & Nashville shows that the traffic would not move under the class rate. Moreover, besides being a low-grade material, the barytes shipped from Lexington is of even less value than that found in an adjoining territory, as shown in *Barytes from Tennessee*, 43 I. C. C., 334, 335. In the next place the record shows that so long ago as 1909 the Queen & Crescent, as before stated, had put in effect a commodity rate of 15 cents on crude barytes moving to Philadelphia from the group of points in Kentucky hereinbefore named, some of which are even more distant from Philadelphia than is Lexington. Of those points Nicholasville alone is served by the Louisville & Nashville, and from that point, which is some 12 miles south of Lexington, the Louisville & Nashville, in November, 1909, as before stated, published a rate of 15.5 cents to Philadelphia. No crude barytes was then moving over its rails from that or any other point on its line, and it is understood that this rate was applicable also on the ground barytes, which, as we understand from the record in *Barytes from Tennessee, supra*, is ordinarily worth twice as much as the crude article. This 15.5-cent rate, as our tariff records show, is still in effect from Nicholasville and a substantial tonnage moves under it.

The findings and conclusions in the case last cited also afford us something of a test of the reasonableness of the 23-cent rate which the Louisville & Nashville has admitted to be excessive. We there had under consideration a rate of 17.3 cents, increased from 16.52 cents, on crude barytes moving to Philadelphia from Sweetwater, in the state of Tennessee, a haul of about 800 miles, and a rate of 18 cents, increased from 17.14 cents, on ground barytes. The former increased rate yielded 4.33 mills per ton-mile and the latter 4.5 mills per ton-mile; and these earnings should be compared with the earnings of approximately 6 mills per ton-mile under the 23-cent rate here before us for a haul of 759 miles.

From these and other facts appearing of record, we have no difficulty in accepting as well founded and fully justified the admission of the Louisville & Nashville, for itself and its connections, that the 23-cent sixth-class rate, under all the circumstances surrounding the traffic, was unreasonable, and we so conclude and find. Although the ton-mile earnings under the subsequently established 15-cent rate are low, the record discloses no grounds for thinking that that rate was lower than was found necessary, both by the Queen & Crescent and by the Louisville & Nashville, in order to move the traffic, which, as before stated, was of a low grade; and inasmuch as a 15.5-cent rate has been in effect over the Louisville & Nashville route from Nicholasville for some years, we see no reason why the 15-cent rate, voluntarily

put in effect more recently from Lexington, should now be discarded as a basis for an award of reparation. We further find that the complainant made the shipments as described and paid the charges thereon at the rate herein found unreasonable; that the complainant has been damaged to the extent of the difference between the charges paid and those which would have accrued at the rate found reasonable; and that it is entitled to an award of reparation in the sum of \$101.12, with interest.

The commodity rate of 15 cents established by the defendants, as stated, and since increased to 15.4 cents, applies from all points between Lexington and Paris on the Louisville & Nashville. These are stated to be all the points of production on the line of this carrier. However, no provision is made for the publication of this rate on short notice or for applying it by intermediate application from points north of Paris. That portion of defendants' fourth section application set for hearing will therefore be denied to the extent that it is here involved.

Appropriate orders will be entered.

HALL, Chairman, dissenting:

The two shipments upon which reparation is claimed moved on the sixth-class rate legally applicable. The sixth-class basis applies on barytes throughout southern classification territory in the absence of commodity rates, and there is nothing to show that the 23-cent rate charged, yielding as it did about 6 mills per ton-mile for a haul of 759 miles, was unreasonable for that class or that barytes is unreasonably classified. Apparently there had been no movement of crude barytes from Lexington to Philadelphia previous to the sudden cutting off of the supply from Germany by the European war, and consequently there was no reason for maintaining a commodity rate. The present rate yields less than 4 mills per ton-mile and was established for competitive reasons. So was the rate of 15½ cents from Nicholasville. Rates made under such special influences are, at best, imperfect criteria of reasonableness. So, also, a carrier's willingness to make reparation may be motivated by business or other considerations wholly unconnected with the issue before us, which is, first of all, to determine whether the rate was just and reasonable at the time it was maintained and applied. If it was, we can not award reparation for violation of section 1 whether the carrier is willing or not. To these doctrines my colleagues have given and doubtless give their full adherence. We differ in the application made to this case. I can not bring myself to the view that it was unjust and unreasonable, in violation of section 1 of the act, for the defendants to maintain the sixth-class rate applicable to crude barytes through-

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out southern classification, at a time when there was no transportation reason which would justify their establishment of a commodity rate, or to apply that sixth-class rate to the initial shipments when movement suddenly began. That rate was legally applicable and, as I see it, lawfully applicable, and, if so, no reparation should be awarded. As contrasted with the action taken in this case, in *Abel & Roberts v. M. P. Ry.*, 46 I. C. C., 301, we dismissed a complaint attacking as unreasonable a rate of 11 cents on chatts, or zinc tailings, worth 15 cents per ton, from Webb City, Mo., to Beatrice, Nebr., the earnings being 6.36 mills per ton-mile for a distance of approximately 346 miles. We have frequently held that the voluntary reduction of a rate and the willingness of a carrier to make reparation are not alone sufficient to justify an award. *Fern Glen Distilling Co. v. St. L. & S. F. R. R. Co.*, 45 I. C. C., 101; *Ferguson & Son Grocery Co. v. A., B. & A. Ry. Co.*, 45 I. C. C., 81. For the reasons stated I am unable to agree with the majority report.

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INVESTIGATION AND SUSPENSION DOCKET No. 1007.
EMPTY CARRIER RATINGS.

Submitted March 23, 1917. Decided July 20, 1917.

Proposed change in the western classification ratings on drums used in the transportation of ammonia, glycerine, tar oil, cottonseed oil, and olive oil found justified, and orders of suspension vacated.

R. C. Fyfe for Western Classification Committee.

H. R. Brashear for St. Louis Chamber of Commerce.

James F. O'Boyle for National Ammonia Company.

William Kunz for Herf & Frerichs Chemical Company.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

The following item is now in effect in the western classification, under the heading "carriers, second-hand, empty, returned, prepaid":

Acid, ammonia and glycerine cylinders or drums, gas cylinders, acetylene gas steel cylinders, tar oil drums, cottonseed oil drums and olive oil drums, one-half fourth class.

Supplement No. 5 to the western classification No. 54, filed to take effect January 25, 1917, proposed to cancel this item, together with several others providing ratings on secondhand empty barrels, kegs, and drums, returned, and to provide ratings on "barrels, half-barrels, drums, or kegs, iron or steel, old, secondhand, empty, loose," of fourth class, in less than carloads, and class C in carloads, minimum 16,000 pounds; on containers of the same description, made of wood, the same ratings with a carload minimum of 14,000 pounds; on carload mixtures of the two, class C, minimum 16,000 pounds; and on "cylinders, wrought iron or steel, brazed, welded or seamless, for compressed air or gases or liquids under pressure, old, secondhand, empty," one-half of fourth class. Upon protest by the National Ammonia Company of St. Louis, Mo., these schedules were suspended until November 25, 1917. Protestant is interested only in the return movement to its plant at St. Louis, of secondhand empty ammonia drums in less than carloads, which are at present rated one-half fourth class, any quantity, when "returned," and in the suspended schedules, fourth class, in less than carloads, without reference to whether or not they are "returned." The evidence was largely con-

fined to the proposed change in the ratings on these and other drums included in the same item.

Protestant ships, in drums, aqua ammonia, a commodity consisting approximately of 30 per cent ammonia and 70 per cent water, and used almost exclusively by ice and refrigerating plants. Most of the drums used are of 110-gallon capacity, their average weight being between 215 and 245 pounds. A smaller drum of 50-gallon capacity is also used to a limited extent. Protestant stated that the larger drums are so substantially made that claims for damage to them in transit are infrequent; that they are confined exclusively to the ammonia traffic; that their value is such as to make it an economic necessity to have them returned to protestant for further use; that protestant's business has been built up on the basis of the rate of one-half fourth class on empty returned drums; that the movement is almost entirely in less than carloads; and that owing to the narrow margin of profit on the ammonia the proposed increase of 100 per cent in the charges for the return movement of the empty drums will necessitate an increase in the price of the ammonia and will tend to discourage the use of aqua ammonia as a refrigerating agent.

Respondents called attention to the fact that the increase from one-half fourth class to fourth class is proposed on only six varieties of drums, namely, those used in the transportation of ammonia, glycerine, tar oil, cottonseed oil, olive oil, and acid. They stated that the glycerine cylinders mentioned in the item first quoted are really drums, the word "cylinders" being misapplied in the classification. It is contended that the one-half fourth-class rating on these drums is unreasonably low, and that it discriminates in their favor against iron drums or barrels of various capacities and weights used in the transportation of other articles, which are rated fourth class when returned empty. Respondents asserted that it is impossible to draw a line of demarcation between drums and cylinders, as some manufacturers use one term and some the other to describe identical articles. They testified that these containers are susceptible to damage in transit, and that while individual claims are usually not large they arise with more or less regularity. The containers are bulky and the average weight which can be loaded in a standard car does not exceed 16,000 pounds. The ratings on new iron or steel barrels or drums, in less than carloads, are first class on those made of material 19 gauge or thicker, and double first class when made of material 20 gauge and thinner. Respondents cited over 100 articles that move in barrels or drums under a fourth-class rating when returned empty. These articles, which, generally speaking, are the same as those shipped by protestant, include articles under the petroleum and oil lists. There is a very large empty movement of the containers in

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which the latter are shipped. Respondents pointed out that under the classification as at present in effect different rates would be applicable to the same container returned empty, dependent solely on the article which it had contained on the outbound movement, and that the obvious discrimination which results from this situation would be removed by the proposed schedules. They stated that the elimination of the restriction to "returned" shipments was for the purpose of allowing secondhand containers to move more freely; that this protest is the only one received in connection with these schedules; and that so far as they are advised the proposed changes are satisfactory to all other shippers whose traffic is affected thereby. Protestant observed that rates of one-half fourth class are maintained for the empty return movement of the cylinders for gases and liquids under pressure; and also for the empty return movement of beer packages. Respondents replied that a revision of these items was in contemplation.

In *Paine Lumber Co., Ltd., v. C. & N. W. Ry. Co.*, No. 6778, unreported, which involved the rate on iron drums returned in carloads from Oshkosh, Wis., to Anderson, Ind, we said:

Upon this record we are constrained to hold that the rating of fourth class as applied upon the empty return movement of iron drums used as containers for silicate of soda while a rating of one-half fourth class is contemporaneously maintained upon the empty return movement of substantially similar iron drums used as containers in the outbound movement for glycerine and oil is unjustly discriminatory and unduly prejudicial. A difference in rating such as is here shown must rest upon a real classification distinction and not upon the use to which the article has been put or the character of the shipper's business.

We find that the proposed changes in rating have been justified. Our orders of suspension will be vacated.

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No. 8751.

W. H. BARBER AGENCY COMPANY

v.

KENTWOOD & EASTERN RAILWAY COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATION No. 2045.

Submitted January 15, 1917. Decided July 19, 1917.

1. Rates on turpentine and rosin in carloads from stations on the Kentwood & Eastern Railway to St. Paul and Minneapolis, Minn., found unreasonable and unduly prejudicial. Reasonable rates prescribed for the future. Reparation awarded.
2. Fourth section relief denied.

*Borders, Walter & Burchmore and N. D. Belnap for complainant.
R. Walton Moore and Frank W. Gwathmey for Illinois Central
Railroad Company.*

REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

The complainant is a corporation, with its principal place of business at Minneapolis, Minn., engaged in the sale of naval stores, petroleum products, and other articles in Minneapolis and St. Paul, Minn., and at numerous other points farther north and west, including points in Canada. About 50 per cent of the turpentine and rosin which it sells is procured at points on the Kentwood & Eastern Railway in northeastern Louisiana, and the substance of the complaint, filed March 20, 1916, is that the rates which it pays to Minneapolis and St. Paul on both commodities are unreasonable and unjustly discriminatory in comparison with the rates on like traffic from other points of origin and with the rates on lumber and other forest products from various points. Certain fourth section violations also are alleged. Reparation is asked. The claim for reparation was informally presented to the Commission on September 20, 1915.

Turpentine and rosin are produced in largest quantities in Georgia and Florida but are also produced in large quantities in Alabama, Mississippi, and Louisiana. Prices for both commodities are made from day to day at Savannah, Ga., and the prices at other points are fixed with relation to the prices of that market and the freight rate from that point. Representative prices prior to the filing of

the complaint were \$4.50 per 250-pound "stand" of rosin and 40 cents per 7-pound gallon of turpentine.

Rosin moves in barrels in ordinary box cars, while turpentine moves principally in privately owned tank cars for which the carriers allow three-quarters of a cent per mile both ways. Rosin is hauled with little risk. Turpentine, because inflammable, is subject to greater risks, which, under the tariffs, the owner assumes.

Complainant buys both turpentine and rosin in carloads and distributes both commodities, when further shipment is necessary, in less-than-carload quantities. Turpentine being received in tank cars must be barreled before it can be distributed in less than carloads. Competing dealers at Minneapolis, St. Paul, and Chicago, Ill., conduct their business in the same way, except that they get most of their turpentine and rosin from New Orleans, La., and Pensacola, Fla.

The Kentwood & Eastern extends from Kentwood, La., 30 miles east to Hackley, La., a branch extending from Bolivar Junction, 3 miles east of Kentwood, 24 miles southeast to Foley, La. Kentwood is on the main line of the Illinois Central Railroad, 83 miles north of New Orleans. Shipments of rosin from Hackley and other points on the Kentwood & Eastern range in weight from 45,000 pounds to 50,000 pounds, while the shipments of turpentine, which are made in tanks holding 8,000 gallons, weigh not less than 57,000 pounds, the charges assessed being based on an estimated weight of 7.2 pounds per gallon. Complainant's shipments are usually routed to St. Paul and Minneapolis over the Illinois Central to Chicago, 877 miles, and the Chicago, Milwaukee & St. Paul Railway from Chicago to destination, 410 miles to St. Paul and 420 miles to Minneapolis.

Rates of 56 cents on turpentine and 40 cents on rosin apply to Minneapolis and St. Paul from Kentwood & Eastern stations. These rates are compared by complainant with rates from other points to St. Paul, as shown in the following table. Rates are stated in cents per 100 pounds here and throughout this report.

From—	Short-line distances.	Rate on turpentine.	Earnings per—	
			Car-mile (cents). ¹	Ton-mile (mills).
Hackley, La.....	1,190	56	27.0	9.40
Kentwood, La.....	1,171	56	27.5	9.56
New Orleans, La.....	1,265	40	18.3	6.37
Newton, Tex.....	1,231	46	21.1	7.33
Fullerton, La.....	1,198	46	22.1	7.68
Beaumont, Tex.....	1,248	46	21.1	7.36
Alexandria, La.....	1,166	46	22.7	7.89
Turpentine, Tex.....	1,193	46	22.2	7.71

¹ Based upon the following weights in pounds per car: Turpentine, 57,000; rosin, 45,000; lumber, 45,000.

From—	Short-line distances.	Rate on rosin.	Earnings per—	
			Car-mile (cents).	Ton-mile (miles).
Hackley, La.....	1,190	40	15.1	6.72
Kentwood, La.....	1,171	40	15.3	6.83
New Orleans, La.....	1,255	32	11.4	5.09
Newton, Tex.....	1,281	34.5	12.1	5.38
Fullerton, La.....	1,198	34.5	12.9	5.75
Beaumont, Tex.....	1,248	34.5	12.3	5.51
Alexandria, La.....	1,165	34.5	13.3	5.92
Turpentine, Tex.....	1,193	34.5	12.2	5.89
		Rate on lumber.		
Hackley, La.....	1,190	32.5	12.2	5.46
Kentwood, La.....	1,171	32	12.2	5.46
New Orleans, La.....	1,255	31	11.1	4.94
Newton, Tex.....	1,281	32	11.2	4.99
Fullerton, La.....	1,198	32	12.0	5.34
Beaumont, Tex.....	1,248	32	11.5	5.12

Owing to differences in value and tonnage it is pointed out that lumber is not fairly comparable with turpentine and rosin. Complainant uses this comparison, however, as suggestive of the relationship which should exist between the rates from Kentwood & Eastern stations and from New Orleans on turpentine and on rosin. The rates on lumber from Hackley to St. Paul and to Chicago exceed the New Orleans rates to those cities by $1\frac{1}{2}$ cents. It is urged that the rates on turpentine and on rosin should not exceed the rates from New Orleans by more than 2 cents.

The rates from Newton, Fullerton, Alexandria, and Turpentine, shown in the foregoing table, are not maintained or controlled by the Illinois Central and there is no evidence of the conditions affecting them. The rates from New Orleans are explained by defendants as being depressed by water competition via the Mississippi River and via ocean-and-rail routes through the north Atlantic ports. The following rates are illustrative:

From—	To—	Turpentine.		Rosin.	
		Route.	Rate.	Route.	Rate.
New Orleans.....	St. Louis.....	Rail.....	28	Rail.....	17
Do.....	do.....	Water.....	22	Water.....	15
St. Louis.....	St. Paul.....	Rail.....	21	Rail.....	18
Do.....	do.....	Water.....	18	Water.....	15
New Orleans.....	do.....	Rail.....	40	Rail.....	32
Do.....	Chicago.....	do.....	31	do.....	20
Savannah.....	do.....	Ocean and rail.....	47	Ocean and rail.....	28.5

The rates on turpentine to St. Louis, Chicago, and St. Paul from New Orleans are 7 cents, 9 cents, and 16 cents less, respectively, than 46 I. C. C.

the rates from Kentwood & Eastern stations to the same points, while the rates from New Orleans on rosin are 5 cents, 7 cents, and 8 cents less, respectively, than the corresponding rates from Kentwood & Eastern stations. The differences in the rates increase instead of decrease as the total distances increase, and without adequate reason.

It is not shown of record that there is an actual water movement of naval stores via the Mississippi River to St. Louis or to St. Paul. Assuming that the force of this competition exists, either actually or potentially, it is no stronger to St. Paul than it is to St. Louis, if as strong, and the difference in rates to St. Louis can not reasonably be exceeded in the rates to river points farther north. The commercial competition encountered from Atlantic ports should affect the rates from Kentwood & Eastern stations equally with the rates from New Orleans.

We find that the rates in issue are and for the future will be unreasonable and unjustly discriminatory to the extent that they exceed or may exceed 46 cents per 100 pounds on turpentine and 34 cents per 100 pounds on rosin.

We further find that complainant received numerous shipments of turpentine and rosin, shown of record, and paid and bore the charges thereon at the rates herein found unreasonable, that it was damaged thereby to the extent of the difference between the unreasonable rates so paid and the rates found reasonable in this report, and that it is entitled to reparation, with interest, on all such shipments which were delivered subsequently to September 20, 1913. Complainant should prepare a statement showing the details of the shipments in accordance with rule V of the Rules of Practice, which statement should be submitted to defendants for verification. Upon receipt of a statement so prepared and verified we shall consider the entry of an order awarding reparation.

Portions of Illinois Central Fourth Section Application No. 2045 were set for hearing with the complaint. No fourth section departures are disclosed of record as none of the Kentwood & Eastern stations from which the rates in issue apply are intermediate from New Orleans or any other point in controversy. The application will be denied to the extent that it is involved.

Appropriate orders will be entered.

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No. 7865.

CHAMBER OF COMMERCE OF JOHNSON CITY, TENN.,

v.

SOUTHERN RAILWAY COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATIONS Nos.
1548 AND 1952.

Submitted November 4, 1915. Decided July 17, 1917.

Class and commodity rates on traffic moving from Cincinnati, or through Cincinnati from beyond, to Johnson City, Tenn., by way of St. Paul or Speer's Ferry, found not to be unreasonable, but to subject Johnson City to undue prejudice and disadvantage by reason of the unduly preferential rates accorded to Bristol, Tenn.-Va.

William A. Wimbish for complainant.

Theodore W. Reath and *Lucian H. Cocke* for Norfolk & Western Railway Company.

Claudian B. Northrop and *Alex. M. Bull* for Southern Railway Company and other defendants.

Nelson W. Proctor for Louisville & Nashville Railroad Company.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

The complaint herein attacks as unreasonable and unjustly discriminatory all class and commodity rates from the Ohio and Mississippi river crossings and beyond, also from central freight association and Buffalo-Pittsburgh territories, to Johnson City, which is in the extreme northeastern part of the state of Tennessee and is served by the Southern, the Carolina, Clinchfield & Ohio, and the East Tennessee & Western North Carolina railroads. The unjust discrimination is alleged to result from rates that are unduly preferential of other localities, particularly the city of Bristol, which is on the Tennessee-Virginia boundary 25 miles northeast of Johnson City. Bristol is the northern terminus of the Knoxville division of the Southern Railway and is served also by the Norfolk & Western and the Virginia & Southwestern railways; it has a population of 15,000 persons, while that of Johnson City numbers 10,000 people.

The country surrounding the two communities is not adapted to agriculture, but both have become manufacturing and jobbing centers of importance and as such are in active competition with one another.

The rates to Bristol, from the territories of origin just mentioned, are lower than the rates from the same points of origin to Johnson City, and as the latter point is directly intermediate to Bristol over some routes, departures from the fourth section of the act to regulate commerce are alleged; these departures are covered by appropriate applications that were heard as a part of this proceeding. The complaint asks for the establishment of rates to Johnson City that shall not exceed those contemporaneously in effect from the same points of origin to Bristol.

Inasmuch as the rates to Johnson City from the Ohio River crossings and from points beyond are made on the basis of the lowest combination and therefore bear a definite relation to the Cincinnati rates, and since the distances from that city are fairly representative it will be taken as a typical point of origin. The distances over several routes from Cincinnati to Bristol and Johnson City are shown in the following table:

	Distances from Cincinnati to—	
	Bristol.	Johnson City.
L. & N., Appalachia.....	}	363
V. & S. W., Spear's Ferry.....		
C., C. & O.....		
C., N. O. & T. P., Harriman Junction.....	437	412
Southern Ry.....	520	
Norfolk & Western.....	}	457
N. & W., St. Paul.....		
C., C. & O.....		
L. & N., Appalachia.....	364	
V. & S. W.....	}	389
L. & N., Jellico.....		
Southern Ry.....		

As will be seen, the short-line distance from Cincinnati to Bristol is over the Louisville & Nashville to Appalachia, in the state of Virginia, and thence by the Virginia & Southwestern through Spear's Ferry, a haul of 364 miles; the short-line distance to Johnson City is over the same route to Spear's Ferry and thence by the Carolina, Clinchfield & Ohio, making a haul of 363 miles. Traffic from the west routed over the Norfolk & Western to either Johnson City or Bristol is handled over the same rails as far as Iaeger, in the state of West Virginia. The haul from that point to Johnson City is 165 miles, of which 87 miles is over the rails of the Norfolk &

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Western and the balance over the Carolina, Clinchfield & Ohio Railway, hereinafter called the Clinchfield; the distance from Iaeger to Bristol over the rails of the Norfolk & Western is 228 miles. Over this route, therefore, Johnson City is 63 miles nearer to Cincinnati than is Bristol. From Cleveland, Columbus, Pittsburgh, Detroit, and other points in that general territory the short-line distances to both Bristol and Johnson City are in connection with the Chesapeake & Ohio through Kenova on the Ohio River, in the state of West Virginia, and thence over the Clinchfield through Elkhorn City. Johnson City traffic moves from the latter point over the rails of the Clinchfield, a total distance from Kenova of 250 miles. Traffic to Bristol may move from Elkhorn City over the Clinchfield to Speer's Ferry, thence by the Virginia & Southwestern, the distance from Kenova over this route being also 250 miles; it may also move from Kenova over the Norfolk & Western rails alone, a distance of 374 miles.

Bristol is the southwestern terminus of the Bristol division of the Norfolk & Western and is on the line dividing the official from the southern classification territory; its rates are, and for more than 20 years have been, based on official classification ratings, while the rates to Johnson City are based on the southern classification ratings. Since 1893 the class rates to Bristol from New York-Chicago percentage group points have been constructed by the addition of certain arbitraries to the rates from those points to the so-called Virginia cities. These arbitraries for the first six classes are in cents per 100 pounds as follows:

1	2	3	4	5	6
12	10	8	7	6	5

This is the lowest scale on the Norfolk & Western and is for a haul of 5 miles or less. The circumstances surrounding the establishment of these rates and arbitraries have been so fully discussed in other proceedings as not to require further mention here. Rates from the same points of origin to Johnson City are, with one exception, constructed by adding to the rates to Bristol what is said of record to be the local distance scale of the Southern Railway for a 25-mile haul, the distance between Bristol and Johnson City. An examination of the tariffs of that carrier on file with the Commission shows that the rates are specific rates and in cents per 100 pounds are as follows:

1	2	3	4	5	6	A	B	C	D	E
26	24	22	18	16	12	12	13	10	10	18

The rates on the first six classes to Johnson City from Chicago, Cleveland, and Pittsburgh, constructed as above explained, and in 46 I. C. C.

effect at the time of the hearing, are compared in the following table with the rates from the same points of origin to Bristol:

From—	To—	1	2	3	4	5	6
Chicago.....	Bristol.....	84	72	55	30	23	27
Do.....	Johnson City.....	110	96	77	57	49	39
Cleveland.....	Bristol.....	66½	57	43½	31	26	21
Do.....	Johnson City.....	92½	81	65½	49	42	33
Pittsburgh.....	Bristol.....	86½	73	55½	30	24	26
Do.....	Johnson City.....	112½	97	77½	57	50	38

The single exception to the basis just described is in the rates from Cincinnati and Louisville territory. Prior to our finding in *The Five Per Cent Case*, 32 I. C. C., 325, the rates to Bristol from these two points were made in the same manner as those from the other points involved in the complaint. And, while under the authority of that case the rates from these other points of origin to Bristol were increased, the Cincinnati and Louisville rates, being governed by southern classification, remained unchanged. In the following table the rates on the first six classes from Cincinnati to Johnson City are contrasted with the rates to Bristol:

To—	1	2	3	4	5	6
Johnson City.....	100	87	68	53	45	35.5
Bristol.....	77.6	63	47.5	36	30.4	24.9
Bristol in excess of Johnson City.....	22.4	24	20.7	17	14.6	10.6

According to the route selected, it is stated of record that the distances from Cincinnati to Johnson City are less than the miles to Bristol by from 1 to 64 miles, the Bristol distances ranging from 364 to 520 miles, as compared with 363 to 456 miles to Johnson City. The short-line distance to Bristol of 364 miles, as hereinbefore stated, is over the route of the Louisville & Nashville to Appalachia, and thence by the Virginia & Southwestern; the short-line distance of 363 miles shown by the complainant to Johnson City is over the same route as far as Speer's Ferry, and thence by the Clinchfield. The Virginia & Southwestern, however, does not participate in the handling of traffic from Cincinnati and points basing thereon to Johnson City in connection with the route through Speer's Ferry. It receives Johnson City traffic at Appalachia and hauls it to destination through Bristol and thence over the line of its parent company, the Southern Railway. The distance over this route is 389 miles. The shortest available route from Cincinnati to Johnson City is over the Louisville & Nashville to Jellico, and thence by the Southern Railway, a haul of 388 miles, as hereinbefore stated. So far, there-

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fore, as the Louisville & Nashville routes are concerned, the distance to Johnson City is 24 miles greater than the minimum distance to Bristol. The complainant lays great stress on the fact that the opening of the Elkhorn City extension of the Clinchfield has given Johnson City a new and shorter route from some of the points of origin involved in the complaint. It has as a matter of fact reduced the distance from Pittsburgh and points in the Buffalo-Pittsburgh zone by about 50 miles. It has not, however, reduced the short-line distance either to Johnson City or to Bristol from Cincinnati or from points from which the short-line distance is made through Cincinnati, including Chicago and the important territory taking Chicago rates. It is seldom, however, that distance is the sole factor to be considered in fixing reasonable rates. In *Union Tanning Co. v. S. Ry. Co.*, 26 I. C. C., 159, we said, page 164:

While in fixing reasonable rates and relative rate adjustments distance must always be considered as bearing both upon cost to the carrier in performing the service and the value of the service to the shipper, there are many other facts, such as density or sparsity of traffic over and along the lines of movement, comparative cost of construction and operation, and competitive conditions, which must be given weight. In some situations the other facts and conditions are so nearly uniform or similar that distance becomes the dominating factor in the relative adjustment of rates, while in others distance becomes within limitations a minor factor because of the dominating and controlling force of other facts and conditions; hence many striking inconsistencies would be apparent in different rate adjustments made by orders of this and state commissions, as well as voluntarily by the carriers, if examined and compared with regard to distance alone. If the Commission should dispose of these rate questions and controversies by resort alone or mainly to comparative distance, ton-mile earnings, and estimated relative earnings above the estimated so-called "out of pocket" cost to the carrier for each service performed, there could always be found standards for the reduction of every rate to the basis of the lowest, whatever may have compelled or induced its establishment. For the Commission to adopt such a course would inevitably lead to a continuous process of reducing the carriers' revenue, a result which would be detrimental to the public interest as well as unjust to the carriers.

Taking Cincinnati and Louisville as typical points of origin, the rates to Johnson City are generally no higher than the local rates in the southeast, or the rates in Arkansas, Louisiana, and Oklahoma; they are not higher than the rates of the Clinchfield, the distance scales of the Louisville & Nashville and other southeastern carriers, excluding, however, the Norfolk & Western. Unaccompanied, however, by definite proof of substantially similar operating conditions, these comparisons are of no great value. The defendants also compared the rates to Johnson City with the distance scale prescribed in *Fourth Section Violations in the Southeast*, 30 I. C. C., 153; 32 I. C. C., 61. This scale, however, named the maximum rates to be
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charged in that territory, without regard to operating conditions or the volume of traffic. The class rates in effect to Johnson City at the time of the hearing were said by the defendants to be lower than at any previous time except in 1894.

The Clinchfield before building into Johnson City agreed to publish tariffs giving to that point the Bristol basis of rates and, relying upon this promise, certain investments of a substantial nature have been made by business men of that city. The Clinchfield is now willing to fulfill this promise. It therefore admits the allegations of the complaint, but the Norfolk & Western and the Chesapeake & Ohio, which reach the river crossings and basing points, refuse to join with it in putting the Bristol scale of rates in effect to Johnson City. In fixing reasonable rates their effect on the general prosperity of all the carriers serving that section should be considered; and in weighing the reasonableness of the rates to Johnson City we must consider the effect of those rates not only upon the Clinchfield, but also upon the Cincinnati, New Orleans & Texas Pacific, the Southern, the Louisville & Nashville, Norfolk & Western, Chesapeake & Ohio, and the other carriers serving the territory in which Johnson City is located. In the light of the facts appearing of record we find the rates complained of to be not unreasonable. Nor does the record justify us in prescribing to Johnson City rates on a basis lower than it now enjoys.

The Chesapeake & Ohio, while participating in joint rates to both Bristol and Johnson City, states that the Norfolk & Western is responsible for the present adjustment to Bristol. The Norfolk & Western, on the other hand, contends that the rates established by the Chesapeake & Ohio to points intermediate to Norfolk influenced it in extending to Bristol the trunk line basis of rates. The Louisville & Nashville and Southern disclaim any responsibility for the rate adjustment to Bristol and show of record that not only did they object vigorously to the extension of the trunk line basis to that point, but that the objection has been a continuing one against rates which they regard as unreasonably, abnormally, and excessively low. As a matter of fact, the Southern did not meet the rates fixed by the Norfolk & Western for more than a year. During this period the first-class rate of the Southern from Cincinnati to Johnson City was \$1.22; that of the Norfolk & Western, \$1 per 100 pounds.

The practice of making rates to Johnson City by adding certain arbitraries to the rates to Bristol has been in effect for many years. The defendant carriers, in justification of the discrimination against Johnson City, contend that the extension of the trunk line basis of rates to that point would lead to similar demands from other com-

munities and finally result in the establishment to the entire southeastern territory of rates made on the trunk line basis. They submit that because of the lesser volume of traffic, the sparsity of population and other conditions prevailing in the south, the carriers operating in that territory could not successfully do so on the trunk line basis of rates. They endeavor to justify the discrimination in favor of Bristol on the ground also that competitive conditions exist there which do not exist at Johnson City. Although Bristol is larger than Johnson City, the natural advantages of the two communities appear to be fairly comparable. Bristol has profited by its strategic situation as the terminus of two trunk lines, one extending eastwardly and influenced by the trunk line rate basis, the other extending south and west, but together with its connections also competing for the larger volume of traffic originating in official classification territory. On the other hand, while Bristol has no direct connection to the south, the Clinchfield, which runs through Johnson City to the Carolina territory, has enlarged the transportation facilities of that city.

The development of Johnson City as a manufacturing and jobbing center is of more recent origin than the growth of Bristol, and in the past its intermediate situation on the line of a distinctively southern carrier has prevented it from securing at the hands of the carriers rates comparable with those maintained to Bristol. The two communities, as before stated, are active competitors for the trade of the contiguous territory, but the rate adjustment in effect to Bristol enables its manufacturers and jobbers to control to some degree the business of a portion of the near-by territory which ordinarily would be common to both towns. While the natural advantages and the transportation facilities of the two communities are substantially similar, the carriers have, by a rate-making policy growing out of their competition with one another, discriminated against Johnson City. A few illustrations of the situation will suffice: The freight charges on a car of nails and wire weighing 40,151 pounds shipped from Pittsburgh to a dealer at Johnson City were \$136.51; a dealer at Bristol would have paid freight charges on the same shipment amounting to \$104.39. The rate on packing-house products from Cincinnati to Bristol is 30.4 cents; to Johnson City, 36 cents per 100 pounds. Because of the rates in effect on automobiles, it is cheaper for the Johnson City dealer to have shipments made to him at Bristol and bring the automobiles over the wagon roads to Johnson City under their own power. In 1880 Johnson City had a population of 685; in 1910 this had increased to 8,502. In the same period the

population of Bristol had increased from 3,209 to 13,395. The carriers point to the rapid and substantial growth of Johnson City as evidence that the Bristol rates result in no unjust discrimination, but from the facts of record we think that the contrary has been shown.

In *Gump v. B. & O. R. R. Co.*, 14 I. C. C., 98, class rates as well as certain commodity rates from the Atlantic seaboard cities to Johnson City were complained of as unreasonable and unduly preferential of Bristol and Morristown. The history of the rate adjustment to Bristol was set forth in that case, and although it was there shown that the Southern Railway had been obliged to meet at Bristol the rates of other lines, we nevertheless said, page 106:

The Southern's justification in meeting the Bristol rate does not, however, justify the adjustment via Bristol to Johnson City and Morristown established by the Norfolk & Western and its connections. The Norfolk & Western, with the Virginia & Southwestern and the East Tennessee & Western North Carolina, as well as in connection with the Southern, make two other routes to Johnson City, and the rates via these routes have been established by the voluntary acts of the carriers parties thereto.

As to the contention in that proceeding that Johnson City had prospered, we said, page 108:

It is true that the complainants in these cases have been prosperous and that their several concerns have increased their business from time to time, but it is evident that this has been done in the face of an adverse rate adjustment and is due to natural advantages and conditions and the rapid development of Johnson City within the past three years. They should not be hampered with a discriminatory rate adjustment because of their prosperity or their natural advantages.

With respect, however, to traffic from the west the situation at Johnson City differs from that considered in the *Gump Case*, *supra*. The record makes it clear, we think, that the Norfolk & Western is directly responsible, and the Chesapeake & Ohio indirectly responsible, for the present adjustment to Bristol. Each of these carriers is now a voluntary party to through routes and joint rates to Johnson City, and in the case of the Norfolk & Western the distance over one route is less and the operating conditions superior to those prevailing over its own one-line route to Bristol.

Upon all the facts of record we conclude and find that the present class and commodity rates on traffic moving from Cincinnati, or through Cincinnati from beyond, to Johnson City either by way of St. Paul or Speer's Ferry, subject Johnson City to undue prejudice and disadvantage and are unduly preferential of Bristol, within the meaning of section 3 of the act to regulate commerce, to the extent that such rates to Johnson City exceed the rates to Bristol. An appropriate order will be entered to give effect to these conclusions.

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As heretofore stated in the rate adjustment here under consideration there are certain departures from the fourth section that are covered by fourth section applications, portions of which were heard with the complaint. The rates in question, however, are generally the same as those involved in *Rates to Points in Virginia and North Carolina, Fourth Section Applications Nos. 458 et seq.*, now pending. That proceeding is of broad scope and covers the rates from the Ohio River crossings and related points to all points in the states of Virginia and North Carolina. Under these circumstances the consideration of the fourth section questions presented by this record will be reserved until a determination is reached upon the applications last mentioned.

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No. 8487.
GEORGE C. BROWN & COMPANY
v.
SOUTHERN RAILWAY COMPANY ET AL.

Submitted May 1, 1916. Decided July 19, 1917.

Rates on cedar lumber in carloads from certain points in North Carolina to points in central freight association and trunk line territories 8 or 4 cents per 100 pounds higher than the rates on so-called common lumber, pine, oak, etc., found to be unreasonable and unduly prejudicial to the extent that they exceed the rates on common lumber.

J. H. Townshend for complainant.

R. Walton Moore and *Edward H. Hart* for defendants.

REPORT OF THE COMMISSION.

McCHORD, Commissioner:

This complaint alleges that the carload rates on cedar lumber from points in North Carolina on the lines of the Southern Railway and the Seaboard Air Line Railway to points in the states north of the Ohio and Potomac rivers are unreasonable and unduly prejudicial to the extent that they exceed the rates contemporaneously in effect from and to the same points on so-called common lumber, pine, oak, etc. Reparation and the establishment of reasonable and nonprejudicial rates for the future are asked.

The complaint alleges that the rates attacked are 4 cents per 100 pounds higher than the rates contemporaneously in effect on pine, oak, and other kinds of common lumber, except that to eastern water competitive points, such as Philadelphia, New York, and Boston, the rates in issue are 6, 7, and 8 cents per 100 pounds higher than the rates on common lumber. At the hearing the defendants pointed out that the allegations contained in the complaint concerning the basis of these rates were not supported by the facts, and that the proper basis is as follows: Both the Southern and the Seaboard Air Line deliver this traffic to the northern lines at the Virginia gateways, and the cedar rates of both lines to the gateways are 3 cents per 100 pounds over their contemporaneous rates on common lumber. The basis for the cedar rates of the trunk lines beyond the gateways, in the official classification territory, is sixth class, which also applies on common lumber, and the joint through rates here involved represent the sums of these two components. There is,

however, this exception: The lines north of the gateways serving trunk line territory demand on this North Carolina cedar 1 cent per 100 pounds more than they receive on common lumber, which is absorbed by the Seaboard Air Line out of its earnings to the gateways, while the Southern adds it to the joint rate. The net general result is that the joint rates on cedar lumber from points on the Seaboard Air Line are 3 cents over its contemporaneous rates on common lumber to both central freight association and trunk line territories, while the joint rates of the Southern on cedar lumber are 3 cents over its contemporaneous rates on common lumber to central freight association territory and 4 cents over its contemporaneous rates on common lumber to trunk line territory.

The lumber shipped by the complainant is second growth red cedar, and is used in the manufacture of cedar chests, in lining closets, in the manufacture of caskets, for flooring in porches, for ceilings, and in the manufacture of small water craft. It is not suitable for the manufacture of lead pencils, one of the main uses of cedar of a better grade, because of knots and general inferior quality.

The petition recites that this cedar "is of inferior quality and of no greater value than any other kinds of lumber which move at the common lumber rate"; that it weighs "approximately the same as shipments of so-called common lumber"; and that "in the major portion of the United States cedar lumber is now accorded the same rates as other kinds of lumber."

The complainant submits the following comparison from United States Department of Agriculture Bulletin No. 232 of the production in North Carolina in 1913 of cedar and of other kinds of lumber that take the common lumber rate, the figures representing units of 1,000 feet: Cedar, 5,167; pine, 1,515,102; maple, 5,394; red gum, 38,879; birch, 997; beech, 825; basswood, 6,180; elm, 769; cottonwood, 335; ash, 2,649; hickory, 2,266; sycamore, 141; cypress, 19,213; spruce, 100; and minor species, 1,003.

The complainant shows that its cedar lumber averages $3\frac{1}{2}$ pounds per foot in weight and loads in excess of 13,000 feet per car, and that the average weight of 105 cars was 47,415 pounds. It refers to *Northbound Rates on Hardwood from Southwest*, 32 I. C. C., 521, 527, wherein the Commission found that 192,312 carloads of pine averaged 47,780 pounds per car, and that 32,836 carloads of hardwoods averaged 50,780 pounds per car.

The complainant's evidence concerning value can not be viewed as entirely consistent. It makes reference to Forest Products Bulletin No. 2 of 1911, issued May 12, 1913, by the Census Bureau, in cooperation with the Department of Agriculture, which is said to 46 I. C. C.

show that in 1911 the average values per thousand feet of the different kinds of lumber produced in the states of Alabama, Kentucky, North Carolina, Tennessee, and Virginia were as follows: Cedar, \$22.99; cypress, \$18.02; oak, \$18.50; tulip poplar, \$23.93; basswood, \$18.53; hickory, \$20.09; ash, \$19.44; and walnut, \$27.83. The value per thousand feet of North Carolina cedar was shown as \$18.38. It was stated that the average value of the complainant's red cedar shipments from the North Carolina producing points here involved, during the period from December 1, 1915, to February 8, 1916, was \$478.08 per car, or \$35.30 per thousand feet, based upon the weight given by the complainant of 3,500 pounds per thousand feet.

Both the complainant and the defendants present general evidence on the question of the value of cedar. These figures range from \$27.52 to \$70 per thousand feet. The defendants offered figures from various state publications purporting to show that cedar used in various lines of manufacture in those states ranged in value as high as \$90 per thousand feet. The complainant offered a copy of a contract between itself and a North Carolina lumber company for the latter's entire cedar output to July 1, 1916, at a price, f. o. b. cars, of \$85 per thousand feet for the cedar of better grade.

The defendants refer to reports compiled by the Forestry Service of the United States, which they state show that during 1915 the monthly prices of pine averaged \$14.84 per thousand feet, and that the monthly prices of oak for the first nine months of 1915 averaged \$25.75 per thousand feet; that 77.4 per cent of the total production of lumber in North Carolina in 1913 consisted of pine; and that the next largest production, 8.8 per cent, consisted of oak. They therefore contend that the value of cedar lumber is about two and one-half times that of pine lumber, and that pine lumber must be considered the real foundation of the adjustment of the rates on common lumber because of its greatly preponderating volume of movement.

The complainant calls attention to the fact that in official classification territory the cedar and common lumber rates are the same, and that this parity prevails from Roanoke, Va., which is an important shipping point, to the points here involved. It is further shown that in some cases the rates on cedar from points on other lines to the points here involved are the same as or less than 3 cents higher than the rates on common lumber. For example, from Lewisburg, Tenn., on the Nashville, Chattanooga & St. Louis Railway, to Rochester, N. Y., the rates are the same, while from McMinnville, on the Nashville, Chattanooga & St. Louis Railway, to Rochester the cedar rates are 2 cents higher than the common lumber rates.

The complainant further shows that the relationship between the cedar and common lumber rates maintained by the Southern Railway,

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a defendant here, is not consistent at different points on its line. Thus, the rates on cedar from Concord, Tenn., to Rochester and Philadelphia are 2 cents and 2½ cents, respectively, higher than the rates on common lumber, while the rate on cedar from Hillsboro, one of the points here involved, to Rochester is 4 cents higher.

The complainant further directs attention to the fact that in *Rates on Lumber from Southern Points*, 34 I. C. C., 652, the respondents, including the Nashville, Chattanooga & St. Louis, Louisville & Nashville, and Southern railways, proposed to reduce the rates on cedar, as well as on walnut and cherry, from producing points in Alabama and Tennessee to the Ohio River gateways, to the basis applicable on common lumber. The defendants state that where the cedar and common lumber rates are the same the adjustment is exceptional, and that ordinarily, where produced in commercial quantities, cedar takes higher rates. They refer to tariffs providing for the 3-cent differential on cedar shipped between many producing points and territories, including that moving from southeastern and Mississippi Valley territories to the "Virginia cities," south Atlantic ports, eastern territory to Ohio and Mississippi river crossings, with some Maryland, the New England states, and in Canada; and from southeastern territory to Ohio and Mississippi River crossings, with some exceptions, and points in the states of North Carolina, South Carolina, and Virginia, and the Buffalo-Pittsburgh territory.

The defendants state that throughout official classification territory, where the cedar and common lumber rates are the same, very little cedar originates.

The defendants refer also to the fact that the official classification lines join in through rates on cedar lumber higher than on common lumber with carriers from other territories where cedar is produced in commercial quantities, citing specifically in support of the assertion the through rates on cedar lumber from the states of Washington, Oregon, and Idaho, which are 10 cents higher than the rates on fir and spruce lumber. The state of Washington produced over 65 per cent of the total cedar output of this country in 1913.

The defendants assert that the parity of cedar and common lumber rates from points on the Nashville, Chattanooga & St. Louis and the Louisville & Nashville railways in Alabama and Tennessee is due to the indirect effect of an order entered by the Kentucky commission in 1906, requiring this relationship on lumber shipped via the Louisville & Nashville between points in that state, the Louisville & Nashville having later extended the adjustment to points on its line north of Decatur, Ala., and Knoxville, Tenn., and the Nashville, Chattanooga & St. Louis having adopted the same course later. The defendants say that the territory affected by this adjustment is limited,

and they refer to our suggestion contained in the report in *Rates on Lumber from Southern Points*, *supra*, that doubtless the amount of walnut, cedar, and cherry produced in that territory was small. The Nashville, Chattanooga & St. Louis and the Louisville & Nashville, respondents in that case, are not defendants in this proceeding.

It is stated on behalf of the Southern Railway that the maintenance of rates on cedar lumber from practically all points in Alabama and Tennessee less than 3 cents above the rates on common lumber is due to the fact that the stations are common points of the Southern and the Nashville, Chattanooga & St. Louis or the Louisville & Nashville, or both, or that the stations are near the common points and affected by the common point adjustment. It is further stated that very little cedar lumber originates on its line in Alabama and Tennessee.

Again, in connection with this same general question of cedar values and differentials in different localities, the defendants compare the price of \$14.45 per thousand feet for Pacific coast cedar, shown by the Department of Commerce and Bureau of Census Bulletin, "Forest Products, Lumber, Lath, and Shingles, 1912," with the higher price of \$18.38 per thousand feet for the North Carolina cedar, shown by the governmental report of prices in 1911 referred to, and call attention to our findings in *Pacific Coast Lumber Manufacturers Asso. v. N. P. Ry. Co.*, 16 I. C. C., 465, in response to a request to vacate our previously entered order "authorizing the establishment of new or increased differentials on cedar lumber * * * higher than the rates on fir and spruce lumber," that we entertained "no doubt of the soundness of the principle and the finding that from this territory (the Pacific coast states) cedar lumber * * * may reasonably take higher rates than fir and spruce lumber." In other words, the suggestion is that we approved in that case a differential over the common lumber rate on a lower grade of cedar than that here involved; although we also held, as the defendants point out, that there was but little difference in the selling prices of northwestern and southern common lumber.

Upon the facts of record we find that the rates on cedar lumber from points in North Carolina on defendants' lines to points in central freight association and trunk line territories are unreasonable to the extent that they exceed the rates on common lumber, pine, oak, etc., from and to the same points, which basis will be prescribed for the future.

Inasmuch as the conclusion here reached disturbs a relationship which has existed for many years, we are of the opinion that reparation should be denied. An appropriate order will be entered.

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No. 7654.
GOLDEN & COMPANY
v.
ADAMS EXPRESS COMPANY ET AL.

Submitted October 27, 1916. Decided July 19, 1917.

Rates for the interstate transportation of shipments of cream by express to Washington, D. C., from points within 500 miles thereof found to be unreasonable. Reasonable rates prescribed as maxima for the future.

M. T. Jones for Golden & Company.

Branch P. Kerfoot for Wells Fargo & Company.

T. B. Harrison for Adams Express Company and American Express Company.

Robert C. Alston for Southern Express Company.

REPORT OF THE COMMISSION.

McCHORD, Commissioner:

A general investigation of rates applicable to interstate transportation of milk and cream by common carriers subject to the act throughout the country and the rules, regulations, and practices governing such transportation was instituted by the Commission on January 11, 1916. A number of formal complaints against existing rates and regulations were consolidated with the investigation. One of the complaints thus merged into the general proceeding was that of Golden & Company against Wells Fargo & Company and the Adams, American, and Southern express companies, No. 7654, in which it is alleged that rates on cream to Washington, D. C., from the territory within 500 miles thereof are unjust and unreasonable. The case was heard and submitted before the general investigation was instituted. No additional evidence was introduced with respect to the issues in the *Golden & Company Case* in the general proceeding. It developed in the general investigation that there were no complaints with respect to rates by express either in trunk line territory or central freight association territory, with the exception of the instant case. A comparatively small amount of milk and cream is shipped by express between points in those territories. Some of the contracts with the railroad companies either prohibit the carriage of milk and cream by express or fix the minimum rates which shall be charged on shipments transported by the express companies.

The complainant in No. 7654 asks the Commission to prescribe express rates on cream in 5, 8, and 10 gallon cans to Washington from points within 500 miles thereof on the same basis as those prescribed by us in *Beatrice Creamery Co. v. I. C. R. R. Co.*, 15 I. C. C., 109. In that case we prescribed a distance scale of rates on cream, in cans, when moving by express or in baggage cars, applicable in the territory west of and including Chicago, Ill., and other points, which scale will be hereinafter referred to as the "Beatrice scale."

The complaint attacks the rates on cream, but it is shown that complainant is not interested in the rates on sweet cream. Complainant is engaged in the manufacture of butter, and sour cream only is received by it. The wholesale price of sweet cream is about 70 cents per gallon. Its value is not based on the bulk of the shipment but is determined by the amount of butter fat it contains. Complainant pays approximately 30 cents per pound for butter fat, the price paid being based on the price of butter as fixed in the middle west. Cream will average about 28 per cent butter fat, although it sometimes contains 40 per cent or more of fat. Sour cream containing 28 per cent butter fat will average about 11 pounds of fat to a 5-gallon can, and on basis of 30 cents per pound its value would be \$3.30 per can, which is slightly less than the value of a 5-gallon can of cream, at 70 cents per gallon. As the percentage of butter fat increases the value per can correspondingly increases.

Complainant's chief supply of cream is purchased directly from farmers at different points in the states of Maryland, Virginia, West Virginia, and Tennessee. Shipments are received occasionally from points in Ohio and Pennsylvania. One-half of the cream received by complainant is produced at points in Maryland and Virginia from 50 to 100 miles from Washington. It is usually sold f. o. b. Washington, and is transported principally in 5-gallon cans in baggage cars on passenger trains. About 15 per cent of complainant's shipments are now made by express.

Complainant began the manufacture of butter in August, 1912, and for some time thereafter shipments of cream were forwarded in baggage cars. Complainant stated that baggage-car service is limited and that because of regulations of the railroad companies this service is unsatisfactory. Complainant also stated that the present express rates are so high as to prohibit shipments, and that under existing conditions it is impossible for complainant to secure a sufficient supply of cream on such terms as will permit profitable operation of its plant.

Baggage-car service is restricted to certain trains. Shippers are required to tender shipments at the doors of the cars or to otherwise assist in loading when shipping cream in baggage cars. This is

not the case when shipments are made by express. Baggage-car rates as a rule do not apply jointly when shipments move via more than one railroad and in some cases when the movement is over different divisions of the same railroad. Complainant can not therefore secure shipments of cream from points not served by carriers reaching Washington unless it employs some one to make the transfer from car to car at the junction points, and it must pay the combination of local rates to and from such junction points. Such service is provided without extra charge under the present express rates.

Defendants assert that complainant's objections to baggage-car service do not justify taking the traffic away from railroad companies that desire to handle it and turning it over to express companies that do not want it at the rates proposed by complainant. The defendants contend that the Beatrice scale prescribed for carriers in the middle west is not a proper measure of rates for transportation in the territory here involved.

The following table shows the average length of haul and the quantity of cream delivered by Wells Fargo & Company to representative points to which the Beatrice rates are applicable during May, 1914:

	Average haul (miles).	Gallons.		Average haul (miles).	Gallons.
Concordia, Kans.....	86	115,900	Kansas City, Mo.....	89	195,920
Hutchinson, Kans.....	94	60,770	St. Joseph, Mo.....	203	127,740
Salina, Kans.....	83	17,170	Oklahoma City, Okla.....	75	27,370
Topeka, Kans.....	162	157,710	Enid, Okla.....	63	10,910
Great Bend, Kans.....	100	78,300			

The record does not show the amount of cream transported to Washington by express. As before stated, complainant receives about 15 per cent of its shipments by express. On this basis 7,845 gallons of cream were received by express during the period from January 1 to April 30, 1915.

It is urged by the express companies that complainant's inability to secure a larger supply of cream should not be attributed to express or baggage rates, but is due primarily to the fact that petitioner's plant is located in a region in which the production of cream is limited.

Complainant contends that rates on cream should be no higher than those on milk. This question has been considered in *New England Milk Case*, 40 I. C. C., 699; *Milk and Cream Rates to New York City*, 45 I. C. C., 412; *Milk and Cream Rates to Philadelphia, Pa.*, 45 I. C. C., 371; and *Milk and Cream Rates in Central Freight* 46 I. C. C.

Association Territory, 46 I. C. C., 601. In the cases cited we found that the rates on cream should not exceed those on milk by more than 25 per cent, and no reason has been advanced that would justify a different conclusion with respect to rates on shipments by express. Where the express companies charge second-class rates no difference is made between rates on cream and milk, but the class rates are much higher than the distance rates. It does not appear that the complainant contends that there should be different rates for sour and sweet cream. As a practical matter it would be difficult to apply different rates dependent upon the condition of the cream.

The American Express Company and Wells Fargo & Company maintain distance rates on shipments to Washington from the shipping points involved herein. With the exception of a few commodity rates the Adams and Southern express companies apply the second-class rates prescribed by us in *Express Rates, Practices, Accounts, and Revenues*, 28 I. C. C., 131. The Wells Fargo distance rates are limited to distances not in excess of 75 miles when points of origin and destination are on the same division of the Baltimore & Ohio Railroad in the territory east of New Castle Junction, Pa., which is near the Pennsylvania-Ohio state line. From points on the Baltimore & Ohio west of New Castle Junction to points east thereof on the same railroad the scale is applicable for distances up to 600 miles.

Rates to Washington on cream in 10-gallon cans over the American Express Company and Wells Fargo & Company, and over the Baltimore & Ohio in baggage-car service, and those prescribed in the *Beatrice Case* are shown in the following table. The American Express Company's rates are in cents per 100 pounds, the others in cents per can :

Distance (miles).	American Express.	Wells Fargo & Co.	Beatrice scale.	Baltimore & Ohio scale.	Distance (miles).	American Express.	Wells Fargo & Co.	Beatrice scale.	Baltimore & Ohio scale.
25.....	30	40	20	25	235.....	65	.....	39	49
30.....	35	40	21	26	250.....	65	.....	40	50
35.....	35	40	22	28	265.....	70	.....	41	51
40.....	35	40	24	30	280.....	70	.....	42	53
45.....	35	40	24	30	295.....	70	.....	43	54
50.....	35	40	25	31	300.....	70	.....	44	55
55.....	41	40	26	33	310.....	75	.....	44	55
60.....	41	40	27	34	325.....	75	.....	45	56
75.....	41	40	28	35	340.....	75	.....	46	58
80.....	46	.....	29	36	355.....	75	69	47	59
100.....	46	.....	30	38	370.....	75	69	48	60
115.....	55	.....	31	39	385.....	75	69	49	61
130.....	55	.....	32	40	400.....	75	69	50	63
145.....	55	.....	33	41	415.....	80	75	51	64
150.....	55	.....	34	43	430.....	80	75	52	65
160.....	60	.....	34	43	445.....	80	75	53	67
175.....	60	.....	35	44	460.....	80	75	54	68
190.....	60	.....	36	45	460.....	85	82	54	68
200.....	60	.....	37	46	475.....	85	82	55	69
205.....	65	.....	37	46	490.....	85	82	56	70
220.....	65	.....	38	48	500.....	85	82	57	71

The express classification provides that cream in milk cans shall be estimated to weigh 10 pounds per gallon. Certain of the express companies' tariffs provide for an estimated weight of milk and cream in cans at 10 pounds per gallon based upon the full capacity of the can. Under these provisions the rates of the American Express Company shown above would be the same per 100 pounds as per 10-gallon can.

The rates which complainant contends should be established are not intended to include collection and delivery service. The present second-class rates do include such service. The baggage-car rates named above are applied to distances on a single line of railroad. The express rates are applicable over several railroads when the service is by the same express company. The Beatrice scale was also intended to be and is applied to continuous mileage over two or more railroads when the service is by one express company, but it authorized a charge of 4 cents per 10-gallon can; 3 cents per 8-gallon can; and 2 cents per 5-gallon can for the transfer from the cars of one railroad to those of another.

The rate of Wells Fargo & Company for transportation of a 5-gallon can for distances up to 25 miles is 20 cents. The rate for that distance in the Beatrice scale is also 20 cents. That company also maintains the following commodity rates, in cents per can, on shipments of cream to Washington. The rates prescribed in the *Beatrice Case* are also shown:

From—	Distance (miles).	Wells Fargo.		Beatrice scale.	
		5-gallon.	10-gallon.	5-gallon.	10-gallon.
Hagerstown, Md.....	77	20	40	20	28
Harpers Ferry, W. Va.....	85	22	44	18	26
Strasburg Junction, Va.....	106	22	44	22	30
Greenville, Va.....	196	22.5	44	26	37
Berlin, Pa.....	202	25	50	26	37

It will be noted that for 106 miles the 5-gallon can rate equals the Beatrice scale, while for 196 and 202 miles, respectively, the rates are less. It will also be noted that the 10-gallon can rate is double the 5-gallon can rate from four points and approximately double from the other point.

The rate scales voluntarily established and now maintained by the American and Wells Fargo vary substantially for similar distances in the same general territory. The rates of the former on shipments in 10-gallon cans are lower from near-by points and higher from distant points than those of Wells Fargo & Company.

Milk and cream are transported to Washington principally in baggage cars, although there is some movement by express. Where

conditions of transportation are substantially similar, as is shown to be the case throughout the territory here involved, there is no justification for rates which are radically different. The defendant express companies did not attempt to justify the disparities in the rate adjustment. It is in the interest of all concerned that the rates on milk and cream should be on a reasonable uniform basis.

Circumstances and conditions surrounding the transportation of cream to Washington are dissimilar from those obtaining in the territory where the Beatrice scale was prescribed. The volume of the traffic to Washington by express is comparatively small. We do not find under the circumstances that it would be reasonable to require the defendant express companies to establish and maintain rates on cream to Washington from the territory involved on the basis of the Beatrice scale. We are of opinion, however, and so find, that under all the facts and circumstances shown of record, rates now maintained by each of the defendant express companies on cream to Washington from points within 500 miles thereof are unreasonable to the extent that they exceed those named in the following table, which are stated in cents per can and which are to include the return of the empty containers:

Miles.	5-gallon can.	8-gallon can.	10-gallon can.	Miles.	5-gallon can.	8-gallon can.	10-gallon can.
5 or under.....	16	20	22	Over 220 but not over 240.	36	46	51
Over 5 but not over 10.....	16	21	23	Over 240 but not over 250.	36	47	52
Over 10 but not over 15.....	17	22	24	Over 250 but not over 260.	37	48	53
Over 15 but not over 20.....	18	22	25	Over 260 but not over 270.	38	48	54
Over 20 but not over 25.....	18	23	26	Over 270 but not over 280.	38	49	54
Over 25 but not over 30.....	19	24	27	Over 280 but not over 290.	39	50	55
Over 30 but not over 35.....	19	25	28	Over 290 but not over 300.	39	51	56
Over 35 but not over 40.....	20	26	28	Over 300 but not over 310.	40	51	57
Over 40 but not over 45.....	21	26	29	Over 310 but not over 320.	40	52	58
Over 45 but not over 50.....	21	27	30	Over 320 but not over 330.	41	53	58
Over 50 but not over 60.....	22	28	31	Over 330 but not over 340.	41	53	59
Over 60 but not over 70.....	23	30	33	Over 340 but not over 350.	42	54	60
Over 70 but not over 80.....	24	31	34	Over 350 but not over 360.	43	55	61
Over 80 but not over 90.....	25	32	35	Over 360 but not over 370.	43	55	61
Over 90 but not over 100.....	26	33	37	Over 370 but not over 380.	44	56	62
Over 100 but not over 110.....	27	34	38	Over 380 but not over 390.	44	57	63
Over 110 but not over 120.....	27	35	39	Over 390 but not over 400.	45	57	64
Over 120 but not over 130.....	28	36	40	Over 400 but not over 410.	45	58	64
Over 130 but not over 140.....	29	37	41	Over 410 but not over 420.	46	59	65
Over 140 but not over 150.....	30	38	42	Over 420 but not over 430.	46	59	66
Over 150 but not over 160.....	30	39	43	Over 430 but not over 440.	46	60	66
Over 160 but not over 170.....	31	40	44	Over 440 but not over 450.	47	61	67
Over 170 but not over 180.....	32	41	45	Over 450 but not over 460.	47	61	68
Over 180 but not over 190.....	33	42	46	Over 460 but not over 470.	48	62	68
Over 190 but not over 200.....	33	43	47	Over 470 but not over 480.	48	62	69
Over 200 but not over 210.....	34	44	48	Over 480 but not over 490.	49	63	70
Over 210 but not over 220.....	35	44	49	Over 490 but not over 500.	49	63	70
Over 220 but not over 230.....	36	45	50				

The rates above prescribed are not to include collection and delivery service, and are to be applied to continuous mileage over two or more railroads when the service is by one express company. As these rates are higher than those prescribed in the *Beatrice Case*, no transfer charges should be made.

An order in conformity with the findings herein will be entered.

INDIANAPOLIS CHAMBER OF COMMERCE

v.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS
RAILWAY COMPANY ET AL.

Submitted March 13, 1915. Decided July 6, 1917.

1. Prior to October 15, 1914, defendants maintained proportional class rates from Indianapolis and Terre Haute, Ind., and Chicago, Ill., to Ohio River crossings applicable to southeastern traffic subject to the southern classification, and the local class rates northbound on similar traffic were subject to the southern classification. On that date the local rates were made effective on southbound traffic from Indianapolis and Terre Haute, and northbound and southbound traffic was made subject to the official classification. No change was made in the proportional rates from Chicago, Ill., or as to the application of the southern classification on southbound and northbound traffic. On April 1, 1915, the Indianapolis and Terre Haute rates were increased 5 per cent, but no corresponding change was made in the Chicago proportional rates. Upon the facts of record; *Held*, That the carriers have shown that the present rates and charges are reasonable *per se*, but that the present adjustment results in undue prejudice to shippers and receivers of southeastern traffic at Indianapolis and Terre Haute.
2. Where a rate adjustment is found to result in undue prejudice by reason of separately established factors, the carriers parties to the components of the through rates which are not attacked, and which do not in any way contribute to the undue prejudice found to exist, are proper but not necessary parties. *Cairo Board of Trade v. C., O., & St. L. Ry. Co.*, 46 I. C. C., 343.

Edward E. Gates, Quincy A. Myers, and J. Keavy for complainant.

R. R. Hargis for Indianapolis Board of Trade.

Arthur B. Hayes and Charles Conradis for Prest-O-Lite Company, Incorporated.

Isaac Born and A. B. Cronk for Terre Haute Brewing Company.

D. P. Connell for certain defendants.

REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

These three cases were heard together and will be disposed of in one report. They involve the rates and charges on traffic between

¹ This report also embraces No. 7472, Indianapolis Chamber of Commerce v. Cleveland, Cincinnati, Chicago & St. Louis Railway Company et al., and No. 7480, Same v. Same.

Indianapolis, Ind., and Ohio River crossings and Thebes, Ill., when forwarded to or originating at substantially all points in the south-east.

The points hereinafter referred to as the crossings include all Ohio River crossings from Cincinnati, Ohio, to Cairo, Ill., inclusive, also Thebes, Ill. With certain exceptions, what is referred to herein as southeastern territory includes all points south of the main line of the Norfolk & Western from Portsmouth, Va., to Bristol, Va.-Tenn., south of the Kentucky-Tennessee state line, and east of the lines of the Illinois Central and Mobile & Ohio railroad companies, extending from Fulton, Ky., to Mobile, Ala. This territory is generally known as green line territory. Rates are stated in cents per 100 pounds.

Prior to October 15, 1914, except as hereinafter noted, proportional class and commodity rates lower than the local rates were applicable to shipments from Indianapolis, Ind., to the crossings, destined to points in southeastern territory, and these rates were subject to the southern classification. On that date such rates were canceled, and the local rates to the crossings were established as proportional rates, subject to the official classification. The proportional rates from Indianapolis to Jeffersonville and New Albany, Ind., on traffic to Nashville, Tenn., were canceled on September 15, 1914.

Prior to October 15, 1914, proportional class and commodity rates, the same as the local rates, were applicable to shipments which originated in southeastern territory when forwarded from the crossings to Indianapolis, and these rates were subject to the southern classification. On that date such rates were made subject to the official classification.

The Indianapolis and Chicago proportional rates apply to and from all crossings. Likewise the rates south of the river are the same to and from interior points, so that because of the rate equalization the aggregate through rates are the same via all crossings.

ISSUES.

The rates and charges in question are alleged to be unjust and unreasonable, to subject Indianapolis to unjust discrimination and undue prejudice in favor of Chicago and Peoria, Ill., Milwaukee, Wis., and Davenport, Iowa, and points grouped therewith, from and to which proportional class and commodity rates lower than the corresponding local rates are maintained subject to the southern classification, and to be in violation of the long-and-short-haul rule of section 4 of the act, in that the rates and charges on certain commodities to and from Indianapolis are higher than those to and from

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Chicago. Reparation is asked, but no shippers are named in the complaints.

FOURTH SECTION APPLICATIONS.

Fourth Section Applications Nos. 1603 and 1604, which ask for authority to continue lower rates between certain points and the crossings than between intermediate points and the crossings, were heard with these complaints. On April 15, 1915, certain departures were removed by provisions in the tariffs to the effect that the rates from and to Chicago would apply as maxima. The remaining fourth section matters will be considered in the report covering those applications.

INTERVENTIONS.

The Indianapolis Board of Trade and the Prest-O-Lite Company intervened on behalf of complainant, and the latter asks for reparation. The Terre Haute Brewing Company intervened for the purpose of securing the same relief for Terre Haute as complainant requests for Indianapolis. For many years Terre Haute, Ind., has been included in the Indianapolis group.

RATE GROUPS.

For the purpose of making rates between the crossings and certain points north thereof on southeastern traffic there are five groups. The extent of such groups is shown by the map appearing in *Proportional Rates to Ohio River Crossings*, 43 I. C. C., 458.

The distance from Chicago to Milwaukee is 85 miles; to Madison, Wis., over the Illinois Central, 175 miles; to Dubuque, Iowa, 172 miles; to Freeport, Ill., 113 miles; to Morrison, Ill., 124 miles; and to Goshen, Ind., 111 miles. The carriers serving points in the Chicago group east of the Illinois-Indiana state line proposed to cancel the lower proportional rates, except as to a few points in northwestern Indiana, and filed a fourth section application for permission to charge higher rates to and from intermediate points. This application was considered in the report above referred to.

The application of the southern classification results generally in more favorable rates, minimum weights, and regulations, so that the differences between the former and present rates do not measure fully the increases effected. In many instances the ratings and minimum weights in the southern classification are lower, and in other instances any-quantity ratings are in effect.

SOUTHBOUND RATES.

The class rates in effect from October 14, 1914, to the present time from Indianapolis, Chicago, and other points, to the crossings are shown in the following table:

From—	1	2	3	4	5	6	Distances to—
Indianapolis:							
Proportional rates, Oct. 14, 1914 ¹	22	19.5	17.5	11	8.5	7	Cincinnati, 110 miles; Cairo, 343 miles.
Proportional rates, Oct. 15, 1914 ²	25	22	19.5	12.5	9.5	8	
Present proportional rates ³	26.3	23.1	20.5	13.1	10	8.4	
Present local rates to Cincinnati ³	26.3	23.1	20.5	13.1	10	8.4	
Chicago:							
Proportional rates ¹	35	30	22	15	12	10	Cincinnati, 295 miles; Cairo, 364 miles.
Local rates to Cincinnati, Oct. 14, 1914 ²	40	34	25	17	15	12	
Present local rates to Cincinnati ³	42	35.7	26.3	17.9	15.8	12.6	
Present local rates to Cairo ³	46.6	38.4	30.5	23.9	19.1	15.3	
Peoria:							
Proportional rates ¹	35	30	22	15	13	10	Cairo, 272 miles.
Present local rates to Cairo ³	46	37.4	29.2	23.4	18.7	17.6	
Milwaukee:							
Proportional rates ¹	41	35	26	18	15	12	Cincinnati, 370 miles.
Present local rates to Cincinnati ¹	48.3	41	30.5	21	17.9	14.7	
Davenport:							
Proportional rates ¹	41	35	26	18	15	12	Cairo, 366 miles.
Present local rates to Cairo ³	51.3	42.5	33.9	26.7	21.3	20.7	

¹ Subject to southern classification. ² Subject to official classification. ³ Subject to Illinois classification.

Following *The Five Per Cent Case*, 31 I. C. C., 351, the Indianapolis local and proportional rates and the Chicago local rates were increased 5 per cent, but no change was made in the proportional rates to and from the other points referred to.

The increases effected in the rates from Indianapolis by reason of the increased rates and the change in classification on the articles named below, which move regularly to southeastern territory, and the rates from certain other points, are shown in the following table. No substantial changes have been made in the rates from such other points since October, 1914:

	From Indianapolis.			From Chicago and Peoria groups.	From Milwaukee and Davenport groups.
	Prior to Oct. 15, 1914.	Oct. 15, 1914.	Present rates.		
Agricultural implements, c. l.....	7	9.5	10	10	12
Canned goods, c. l.....	8.5	9.5	10	15	17
Cans, empty, c. l.....	8.5	12.5	13.1	15	18
Cylinders, acetylene gas, c. l.....	7	9.5	10	10	12
Dry kiln trucks, c. l.....	7.5	9.5	10	11	13
Dry kiln trucks, l. c. l.....	9.5	13.5	14.5	14.5	16.5
Engines and boilers, c. l.....	7	9.5	10	10	12
Engines and boilers, l. c. l.....	17.5	22	22	22	26
Gas, acetylene, c. l.....	8.5	12.5	13	13	15
Gas, acetylene, l. c. l.....	8.5	19.5	13	13	15
Machinery, c. l.....	7	9.5	10	10	12
Vehicles, l. c. l.....	22	37.5	35	35	41
Veneers, c. l.....	8.5	9.5	10	10	12

¹ Peoria group, 11 cents.

² Davenport group, 14 cents.

³ Chicago rate as maxima.

NORTHBOUND RATES.

As above stated, the tariffs effective October 15, 1914, canceled the application of southern classification as to southeastern traffic in connection with the rates from the crossings to Indianapolis. The Indianapolis class rates have recently been increased 5 per cent, but the Chicago proportionals remained unchanged.

The increases effected in the rates to Indianapolis are shown in the following table. The rates to the Chicago-Peoria and Milwaukee-Davenport groups are also shown:

	To Indianapolis.			To Chicago and Peoria groups.	To Milwaukee-Davenport group.
	Prior to Oct. 15, 1914.	Oct. 15, 1914.	Present rates.		
Returned empty beer packages, c. l.	4.5	8	¹ 6.5	6.5	7.5
Cotton piece goods	15	19.5	¹ 17	17	20
Fruits and vegetables:					
Berries, c. l.	12.5	25	¹ 17	17	20
Oranges, grape fruit, c. l.	12.5	19.5	¹ 17	17	20
Pineapples, peaches, c. l.	12.5	25	¹ 17	17	20
Melons, cantaloupes, c. l.	9.5	12.5	10	15	17
Rough building marble and granite, c. l.	6	6.5	6.5	10	12
Wooden boxes, nested, c. l.	8	12.5	¹ 12	12	14
Sash, doors, and blind, c. l.	8	9.5	10	10	12

¹Chicago rate as maximum.

The primary reason for the increases in the rates and charges from and to Indianapolis was stated to be the decision of the Commission in *Bowling Green Business Men's Assn. v. L. & N. R. R. Co.*, 31 I. C. C., 1. The proportional rates from Chicago, Milwaukee, and Indianapolis to the crossings did not apply on traffic destined to Bowling Green, Ky., but did apply on traffic destined to Nashville, Tenn., which resulted in higher through rates to Bowling Green than to Nashville. The route from Chicago and Milwaukee to Nashville via Evansville is much shorter than that through New Albany or Jeffersonville, and Bowling Green is not intermediate; therefore we permitted the higher aggregate rates from Chicago and Milwaukee to continue via all crossings. The short-line route from Indianapolis is through Jeffersonville or New Albany in connection with the Louisville & Nashville and via this route Bowling Green is intermediate. We held that the through rates from Indianapolis to Bowling Green via those crossings should not exceed those contemporaneously effective on like traffic via the same crossings to Nashville. The defendants operating north of the Ohio River complied with our order therein by canceling, effective September 15, 1914, the proportional rates on traffic to Nashville via those crossings.

The defendants contend that complainant withdrew its attack upon the reasonableness of the rates *per se*, and that thereby defendants

were relieved of the burden of justifying them. While counsel for the complainants stated that no evidence would be introduced as to the reasonableness of the rates *per se* further than to compare them with the Chicago rates, that portion of the complaint was not specifically withdrawn, and the burden of justifying the reasonableness of the present rates is still upon the defendants.

In justification of the increased rates the defendants show (1) that the proportional rates from Chicago were established on traffic to the southeast in order to enable shippers at that point to compete in the southeast with shippers located at New York and other eastern cities, and that the Indianapolis rates were reduced to reestablish the relationship which formerly existed; and (2) that the present rates and charges to and from Indianapolis are in line with those to and from points in central freight association territory east thereof, such as Muncie, Anderson, and New Castle, Ind., and Columbus, Ohio, which are about the same distances from the crossings. As above stated, little evidence was submitted by complainant in support of its allegation of unreasonableness.

The principal contention of complainants is that the present adjustment is unjustly discriminatory and unduly prejudicial as compared with the adjustment in effect from and to Chicago, Milwaukee, and other points. Following *Wickwire Steel Co. v. N. Y. C. & H. R. R. R. Co.*, 30 I. C. C., 415, the burden in this respect is upon the defendants.

The defendants, other than the Illinois Central and the Chicago & Eastern Illinois, contend that they are not responsible for the relatively lower rates from and to Chicago because they have no control over such rates. In support of this contention the history of the Chicago rates was given. The more important steps in this history will be briefly reviewed.

About 1883, the Illinois Central established proportional rates from Chicago to Cairo on traffic destined to the southeast, which were the same as the local rates then applicable from Chicago to Cincinnati, Jeffersonville, and Evansville, subject to the southern railway and steamship association classification, and similar action was taken by the carriers reaching the latter points. Proportional rates subject to the same classification were established from Indianapolis to Cincinnati, Jeffersonville, and New Albany in 1888, to Evansville in November, 1896, and shortly thereafter to Cairo.

Prior to 1905, many changes were made in the rates to southeastern territory because of the active competition between shippers at points in central freight association territory and those at north Atlantic seaboard points. On February 1, 1905, material reductions were made in the class rates from north Atlantic seaboard points to

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Atlanta, due to reductions in the rates from Savannah by the Georgia Railroad Commission. Corresponding reductions were made in the rates from Louisville and points north of the Ohio River.

Because of representations made by the commercial interests of St. Louis, the St. Louis-Ohio River lines recommended in the early part of 1905 that the class rates from St. Louis to the Ohio River which were used in publishing joint rates to the southeast should be changed as follows:

Classes.....	1	2	3	4	5	6
Rates then in effect.....	28	23	20	14	12	10
Rates recommended.....	23	19	17	12	10	8

Realizing that the proposed reductions would have a serious effect upon the rates from Chicago, a conference was had with the Chicago-Ohio River lines. At this conference the Illinois Central and Chicago & Eastern Illinois proposed that the proportional class rates from Chicago be reduced by the same amounts.

The other lines objected to this proposal and adopted a resolution reading in part as follows:

* * * we declare as a principle that the rates from Chicago be not greater than the rates from New York * * *, and until such arrangement is made we protest against the proposed reduction from East St. Louis being made operative. * * * It is the sense of the Chicago-Ohio River lines that they are in favor of making any reasonably fair reduction in rates from their territory to the territory of the southeast on the condition that the same rates be divided between the carriers north and south of the Ohio River on an equitable basis.

Thereupon the Illinois Central and Chicago & Eastern Illinois stated that the proposed rates would be established regardless of the action of the other carriers. The reduced rates became effective from St. Louis on May 15, 1905, and from Chicago May 16, 1905. Following this action the rates from Chicago were also established via the other lines. It should be noted that the Illinois Central had considerable mileage south of the Ohio River, and that at that time the Chicago & Eastern Illinois was controlled by the St. Louis & San Francisco, which reached Birmingham.

No change was made in the rates from Indianapolis and Terre Haute until March 1, 1907, when proportional rates on a relative basis with those from Chicago were established. The defendants assert "that the establishment of proportional rates from both Indianapolis and Terre Haute was based almost wholly upon sentiment and was a case of mistaken judgment," and that the extension of the Chicago proportional rates to points west thereof "was very inadvisable and very unwise." Following the decision in the *Bowling Green Case* an effort was made by the Indianapolis lines to secure

the cancellation of the proportional rates from Chicago. The Illinois Central and Chicago & Eastern Illinois declined to take such action, and at the hearing in the instant cases expressed the view that it would be necessary to continue the present basis from Chicago for commercial reasons.

The witness for the Chicago & Eastern Illinois stated that the preferred route of that carrier for southeastern traffic is via Evansville. Therefore, this carrier is in the same position as the other defendants with the exception of the Illinois Central.

That Indianapolis and Terre Haute shippers and receivers labor under a serious disadvantage on southeastern traffic as compared with those at Chicago is at once apparent. The distances from Terre Haute and Indianapolis to the nearest Ohio River crossings are 109 and 110 miles, respectively, and the present first-class rate is 26.3 cents. The distance from Chicago to the nearest crossing is 285 miles, and the first-class rate is 35 cents; for the additional distance of 175 miles the difference is but 8.7 cents. The distance from Milwaukee to Cincinnati is 370 miles and the first-class rate of 41 cents must be divided with the carriers north of Chicago. In some instances the Chicago proportionals are prorated between three or four lines, while from Indianapolis and Terre Haute the movement to the Ohio River is generally over one line. Many commodity rates are the same from Indianapolis as those from Chicago.

The Chicago proportional rates are also applied from points in western and northern Illinois, northern Indiana, and southwestern Michigan, many of which are not on the Illinois Central or the Chicago & Eastern Illinois, and some of which are local points on the lines of the carriers serving Indianapolis other than the Illinois Central. As above stated, the carriers have proposed to cancel such rates from all of the Michigan points and from most of the Indiana points.

The defendants explain that the Chicago proportionals or arbitraries thereover were established from other points in conformity with the usual basis of constructing rates to and from such points on southeastern traffic. Rates from Indianapolis and Terre Haute to the Ohio River on traffic to and from the southeast for many years were certain percentages of the Chicago rates, and no reason appears why this relationship which was voluntarily established and maintained for a long period of time should not be reestablished.

The Indianapolis lines other than the Illinois Central contend that, as they were not responsible for the establishment of the proportional rates from Chicago, and are not responsible for the continuation thereof, they should not be compelled to establish proportional rates from Indianapolis because the Illinois Central and Chicago & Eastern Illinois are willing to do so for Chicago. They rely largely upon *Ashland Fire Brick Co. v. S. Ry. Co.*, 22 I. C. C., 115, and other

similar cases. In the *Ashland Case* we held that the Louisville & Nashville, which was a party to a rate on fire brick from Ashland, Ky., to Birmingham, Ala., higher than its rate from St. Louis to the same point, the distances being about the same, did not discriminate against Ashland, because it was not responsible for the establishment of the lower rate from St. Louis. The Louisville & Nashville did not serve Ashland, and its withdrawal from the lower rate from St. Louis would not have removed the discrimination against Ashland.

The principal question to be determined is whether the Illinois Central is free from responsibility for the relatively higher rates from Indianapolis. The Illinois Central has been a party to the equalization of rates north of the river for many years. The Chicago-Cairo proportional rates established by the Illinois Central in 1883 were the local rates to Cincinnati, Jeffersonville, and Evansville. To equalize the rates between Indianapolis and Cairo with those between Indianapolis and Cincinnati, the Illinois Central departs from the provisions of the fourth section. Thus the first-class rate from Indianapolis is 26.8 cents, while from intermediate points in Illinois the first-class rate is 35 cents. As the Illinois Central used the Chicago-Cincinnati local rates as a measure for its Chicago-Cairo proportional rates, the Indianapolis-Cincinnati rates should be used in constructing proportional rates between Indianapolis and Cairo.

The defendants submitted little testimony with respect to northbound rates except in justification of the increased rates and charges *per se*. For many years the proportional rates on northbound traffic were the same as the local rates. Following *The Five Per Cent Case*, 31 I. C. C., 351, the proportional rates to Indianapolis and Terre Haute were increased 5 per cent on April 1, 1915, but no change has been made in the proportionals to Chicago. The carriers state that commercial conditions were responsible for the proportional rates southbound, but no reason appears for the relatively higher rates to Indianapolis than to Chicago or for the application of the official classification to the former point and the southern classification to the latter.

In *Partridge & Sons Co. v. P. R. R. Co.*, 26 I. C. C., 484, we found that the Pennsylvania Railroad Company unjustly discriminated against complainants by maintaining the official classification minimum of 10,000 pounds on chairs from Lewisburg, Pa., to Jersey City, N. J., while a party to the southern classification minimum of 8,000 pounds on shipments from southern points to the same point. In the case cited the Pennsylvania participated in the transportation from the southern points, while in this case the defendant lines north of the Ohio River serve either Indianapolis or Terre Haute or both points.

In *Grain Rates in Central Freight Association Territory*, 28 I. C. C., 549, we held that "when a long-standing relation * * * is changed carriers should put before the Commission clearly and convincingly the reason for the change." Defendants Illinois Central and Chicago & Eastern Illinois are primarily responsible for the present adjustment, yet these carriers took no part in the defense of these cases other than the testimony offered by their traffic representatives. This testimony was confined largely to the facts leading up to the establishment of the lower rates from Chicago. In *Class and Commodity Rates to and from Quincy, Ill.*, 32 I. C. C., 471, we held that "it is well settled that a relation of rates established and maintained for a long period of time and to which business has been adjusted should not be lightly disturbed."

The defendants also contended that the complaints should be dismissed for lack of necessary parties defendant. It is pointed out that, although the rates north of the Ohio River are attacked as parts of through rates on shipments to and from points in southeastern territory, no attack is made on the through rates. Since these cases were submitted this question has been considered in *Stevens Grocer Co. v. St. L., I. M. & S. Ry. Co.*, 42 I. C. C., 396, 398, wherein the Commission stated that "proportional rates as such may not be attacked as unreasonable or otherwise in violation of the act unless the through rates are also attacked." The rule as there laid down is too broadly stated. Where a rate adjustment is found to result in undue prejudice by reason of separately established factors, such as is before us in these cases, the carriers parties to the components of the through rates which are not attacked, and which do not in any way contribute to the undue prejudice found to exist, are proper but not necessary parties. *Cairo Board of Trade v. C., C., & St. L. Ry. Co.*, 46 I. C. C., 343.

Upon the facts of record we find that the defendants have shown that the present rates and charges are reasonable *per se*, but that they have not shown that the present adjustment of class and commodity rates and charges between the crossings and Indianapolis and Terre Haute, on the one hand, and Chicago, Peoria, Milwaukee, and Davenport and points grouped therewith, on the other hand, is proper. We find that the present adjustment is unduly prejudicial to shippers and receivers of southeastern traffic located at Indianapolis and Terre Haute.

The facts of record are insufficient to show that the Prest-O-Lite Company or the Terre Haute Brewing Company were damaged because of the unlawful prejudice found to exist, therefore reparation is denied.

An appropriate order will be entered.

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HALL, *Chairman*, concurring:

I concur in the conclusions reached, but do not subscribe to the doctrine that the burden of proof to show that the existing adjustment is free from unjust discrimination and undue prejudice rests upon defendants. Section 1 of the act provides that charges "shall be just and reasonable," section 2 prohibits "unjust discrimination," and section 3 forbids "any undue or unreasonable prejudice or disadvantage in any respect whatsoever." The amendment of 1906 to section 15 provided that whenever after full hearing under the circumstances there recited the Commission shall be of opinion that any rates or charges of carriers subject to the act "are unjust or unreasonable," in the language of section 1, or "unjustly discriminatory" (section 2), "or unduly preferential or prejudicial" (section 3), "or otherwise in violation of any of the provisions of this act," the Commission is authorized and empowered to make a remedial order. It is significant that by the 1910 amendment of the same section the Congress provided that at any hearing involving a rate increased after January 1, 1910, or a rate sought to be increased after the amendment of June 18, 1910, "the burden of proof to show that the increased rate or proposed increased rate is *just and reasonable* shall be upon the common carrier." Had it been the intention of the Congress also to place upon the carrier the burden of proof to show that the increased rate or proposed increased rate is nondiscriminatory or not unduly prejudicial, why were the words omitted which had been carefully added to "unjust or unreasonable" in the earlier part of the same section? There was no statutory burden of proof on a defendant carrier until placed there by this amendment of 1910, and that burden should not be enlarged beyond the plain meaning of the statute under familiar canons of construction. My views are more fully stated in my dissenting report in *Burson Knitting Co. v. C., M. & G. Ry. Co.*, 42 I. C. C., 739, 741.

I am authorized by COMMISSIONER HARLAN to state that he concurs in the views herein expressed.

DANIELS, *Commissioner*, concurring:

In the report in this case I concur, save for the statement that—
Following *Wickwire Steel Co. v. N. Y. C. & H. R. R. Co.*, 80 I. C. C., 451, the burden in this respect is upon the defendants.

In connection herewith I refer to my dissenting memorandum in *Burson Knitting Co. v. C., M. & G. Ry. Co.*, 42 I. C. C., 739.

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No. 4800.

SLOSS-SHEFFIELD STEEL & IRON COMPANY ET AL.
v.
LOUISVILLE & NASHVILLE RAILROAD COMPANY ET AL.

Submitted October 27, 1915. Decided July 19, 1917.

Upon further consideration of the record herein, *Held*, That—

1. All-rail and rail-and-water rates on pig iron from Birmingham, Ala., and various other points to New York, N. Y., Philadelphia, Pa., Baltimore, Md., and interior points in trunk line territory, and all-rail rates to New England points have not been shown to be unreasonable.
2. Rail-and-water rates of \$4.60 per long ton on pig iron from the same points to Boston, Mass., and Providence, R. I., not found to be unreasonable and original report, 30 I. C. C., 597, modified.
3. Reasonable through rail-water-and-rail rates to interior New England points prescribed for the future.

William A. Wimbish and *Wimbish & Ellis* for complainants.

R. Walton Moore and *M. P. Callaway* for southern railroads and steamship lines.

W. P. Lewis for Clyde Steamship Company and Mallory Steamship Company.

F. D. McKenney and *W. C. Carpenter* for Pennsylvania Railroad Company and affiliated lines.

W. C. Coleman for Baltimore & Ohio Railroad Company.

William A. Glasgow, jr., for eastern Pennsylvania furnaces, interveners.

THIRD SUPPLEMENTAL REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

In our report of June 1, 1914, 30 I. C. C., 597, we considered, among other things, the reasonableness of rates on pig iron in carloads from producing districts in the states of Alabama and Tennessee to points in trunk line and New England territories. Certain rates were found to be unreasonable, and an order was entered prescribing reasonable maximum rates to Boston, Mass., and certain interior points in New England.

On November 3, 1914, upon supplemental complaint, the case was reopened by the Commission for further investigation and hearing as to the reasonableness of certain rates "which were in issue in the original complaint" but not covered by the order of June 1, 1914.

On January 25, 1915, the Commission ordered that the scope of the rehearing "be enlarged so as to include the admission of evidence upon and the reconsideration of" the reasonableness of the rates from Birmingham, Ala., "to Boston, Mass., by rail and water, and to Springfield and Lowell, Mass., and Portland, Me., by rail water and rail, and to other New England points covered by the order" of June 1, 1914.

At the threshold of the inquiry a question is raised as to the issues presented. Complainants take the position that rates to points generally in trunk line and New England territories are involved, whereas the defendants contend that only rates to eastern port cities and to interior points in New England and in the state of New York are covered by the pleadings. Complainants were permitted, over objection by defendants, to submit evidence on the theory that the issues embrace rates to interior points in the states of Pennsylvania, New Jersey, and Maryland, as well as to interior points in the state of New York. The defendants stood upon their objection that interior points outside of New England and New York were not involved, and declined to offer evidence concerning rates to such points. The original complaint and exhibits filed therewith refer generally to the pig-iron rates to eastern cities and interior New England points, both all rail and rail and water, as shown by Washburn's pig-iron tariff I. C. C. No. 68. Boston, Providence, New York, Philadelphia, and Baltimore are specifically named as destination points, and the broad allegation is then made that the rates to such points "and the rates made with relation thereto * * * to interior eastern and New England points, as shown in said tariff, are unjust, unreasonable and unequal, in violation of sections 1 and 3 of the act to regulate commerce." The prayer is that the rates complained of be found unjust and unreasonable; that just and reasonable rates be established "to Baltimore, Philadelphia, Providence, Boston, and interior points in New York and New England, both all rail and rail and water"; that reparation be awarded, and that such further relief be granted as the facts may appear to justify.

That part of the order of June 1, 1914, which covered rates to the east required the carriers to establish rail and water rates which should not exceed per long ton \$4.25 to Boston, \$5.25 to Springfield and Portland, and \$5 to Lowell, "with like reductions to other interior New England points." The order did not specifically name the points to which "like reductions" were required, and as the carriers reduced rates only to points named in the order and points intermediate thereto, the supplemental complaint resulted. This complaint does not purport to enlarge, restrict, or otherwise materially change the issues of the original complaint. It avers that like reductions to

those required by the order of June 1, 1914, should be extended to New York, Philadelphia, Baltimore, and common points; to all points in New England and the states of New York and Pennsylvania to which through rates were published; and "to eastern water competitive points." To this end the complaint asks that the Commission amend or supplement its order of June 1, 1914, so as to include within the reductions rates to the points and territory just described, and to this is added a prayer for general relief.

It is observed that the allegations of the original complaint in terms include rates to eastern and New England port cities and rates made with relation thereto to interior eastern and New England points. The relief prayed for is less comprehensive as to destination points than is the body of the complaint, and if the prayer alone were to be considered there would be force in defendants' contention; but we think the uncertainty in this respect is cured by the supplemental complaint, wherein it is specifically asked that reduced rates be extended "to New York, Philadelphia, Baltimore, and common points"; to all points in the states of Pennsylvania and New York; and "to eastern water competitive points." Considering the original and supplemental complaints together, as must be done on the record, we are of opinion that the scope of the inquiry is not limited as contended by defendants.

At the original hearing complainants offered little evidence relating to the all-rail rates to New England or to rail-and-water rates to New York, Philadelphia, and Baltimore. As to the all-rail rates, the evidence was so indefinite that we could make no finding in respect thereto; nor did we express any opinion as to what the differentials between the all-rail and the rail-and-water rates to New England, if any, should be. We left to the carriers themselves any necessary or proper readjustment of their all-rail rates to New England and of their rail-and-water rates to points not named in the order. As already stated, however, the carriers, under their interpretation of the order, declined to reduce any rates other than those to the points specifically named and points intermediate thereto, and no reduction was made in the rail-and-water rates to New York, Philadelphia, or Baltimore; nor to any interior points outside of New England.

The carriers resist the claim for further reduced rates to the east and attack the reductions already made as unjust and unwarranted upon the evidence. They ask that in this respect the order of June 1, 1914, be set aside and annulled.

At the rehearing further evidence was submitted by complainants to support their charge of unreasonableness in the rates to the port cities named, both all rail and rail and water, as well as to interior

eastern points generally, all rail and rail water and rail; and the interested defendants submitted additional evidence in support of the reasonableness of the unreduced existing rates and of their contention that the reductions of June 1, 1914, should be set aside and the former rates reestablished.

Some question is raised as to the burden of proof upon the rehearing. We do not think the complainants are relieved from this burden as to any of the rates not specifically found to be unreasonable in the original order. In so far as that order is sought to be set aside, however, we think the parties attacking it should assume the burden of sustaining the attack.

As to the all-rail rates from the southern furnaces we have already referred to the indefiniteness and insufficiency of the evidence presented at the original hearing. The evidence submitted at the rehearing is even less definite. Concerning the suggestion of complainant's witness, that the all-rail rate to New England points "ought to be 25 cents per ton higher than the rail-water-and-rail rate," a representative of the New England carriers testified to the effect that he did not see how an all-rail differential over rail-water-and-rail rates to New England points could be established, because of the difference in the conditions surrounding the all-rail and rail-water-and-rail rates, among other things, in that the all-rail rates are blanketed practically all over New England, which is not the case with the rail-water-and-rail rates made up of rates to the ports and the local rates beyond, varying in amount according to the distances from the ports. For the long hauls the delivering carriers all rail are protected in their divisions of the joint rates, whereas, with respect to rail-water-and-rail rates, as the distances from the ports increase the local rates also increase. As the all-rail rate is the same to all points in the blanket it would be difficult, if not impracticable, to establish a fixed differential in the absence of a blanket rate rail water and rail. A witness for one of the southern carriers testified that because of the necessary manner in which the through rates are made up, there ought not to be a blanket rate rail water and rail to interior points, and without it there could not be a uniform differential all rail over the rail-water-and-rail rates. It was testified by other witnesses that there is not now and never has been any established relation between the all-rail rates and rail-water-and-rail rates on pig iron to points in eastern territory generally; that the all-rail rates from the southern furnaces have never been made in relation to rail-water-and-rail rates; that the rail-water-and-rail rates were established by the southern carriers with a view to marketing southern iron, without definite regard to profitable revenue returns, and were made so low that the all-rail carriers have not attempted to meet them except at a few points; and further, that the rail-and-water rates via Norfolk

and Savannah were made without reference to the northern carriers, but were made up of rates to the eastern and New England ports combined with the local rates beyond.

As to the all-rail rates to New York, Philadelphia, and Baltimore and interior points, no evidence was offered at the original hearing, and very little at the rehearing. Nothing appears of a sufficiently definite nature to justify a finding that any fixed differential should be established between the rates via the all-rail routes and those applying partly by rail and partly by water.

On the question of the reasonableness of the rates to eastern and New England points, whether covered by the order of June 1, 1914, or not, the evidence now of record relates to interior points as well as to the port cities, except that, as hereinbefore pointed out, the carriers offered no evidence as to points in interior trunk line territory outside of the state of New York.

Representatives of the intervening eastern Pennsylvania furnaces earnestly oppose any readjustment of the rates which would allow pig iron from the south to displace the product of their plants in the eastern and New England markets. By reason of the geographical location and relative nearness of their furnaces to the eastern and New England markets, they insist that they are entitled to rates which will insure them the benefit of their natural advantages.

As to the all-rail rates the carriers submitted numerous comparisons with all-rail rates in different parts of the country. These comparisons are not deemed of material importance further than as tending to show that the rates complained of are relatively low in amount. Complainants urge that they are too high and claim that the traffic does not freely move under them. On the other hand it was shown by the defendants that the Pennsylvania Railroad alone handles from the southern furnaces to trunk line and New England territories an average of about 100,000 long tons of pig iron annually in competition with pig iron produced at the northern furnaces. The amount handled by the Baltimore & Ohio Railroad and other lines is not shown. This in part answers the contention by complainants that the all-rail rates from the south are too high as compared with rates from producing points in the states of Pennsylvania and New York, which are based on the Chicago rate. The distances from Birmingham and Chicago, respectively, to the destinations involved are not materially different, nor are the rates. The evidence tending to show that southern iron is at a disadvantage in the eastern and New England markets as compared with iron from the near-by furnaces is not of itself persuasive against the reasonableness of the southern iron rates. It is not the function of the Commission to balance commercial conditions or to equalize advan-

tages growing out of location, so as to bring manufacturers and markets into competition on equal terms. Nor can we say that because tonnage is less than it would be under lower rates, as is here contended, the existing rates are unreasonable. There exists a strong demand in the north for southern iron, but this fact can not control us in determining whether the rates under review are in themselves reasonable.

What are known as water competitive rates are published all rail to interior points in the states of Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, applying via Norfolk and the New York, Philadelphia & Norfolk Railroad and connections. It appears that these rates are maintained in order to meet competition by vessel beyond Norfolk, and are for that reason lower than they would otherwise be. To these water competitive points the rates are practically the same as the rail-and-water rates. We find no justification in the record for a finding that the rates to water competitive points are unreasonable.

As to the rail-and-water rates to New York, Philadelphia, and Baltimore, the evidence of their unreasonableness is not satisfactory or convincing. The contention by complainants with respect thereto appears to be in the main that they have in the past sustained a fixed and established relation to rates from the southern furnaces to points in the west, and also to points in New England, the former of which have been already found unreasonable, as hereinbefore pointed out, and the latter are still under consideration in this proceeding. In view of the Commission's action in the original report, it is claimed that there should be a reduction of 35 cents per long ton to New York, Philadelphia, and Baltimore, and relatively similar reductions to other points so as to preserve the alleged former relation. The defendants answer this by evidence to the effect that there is not now and never has been any fixed or established relation between the pig-iron rates to the east and those to the west or between the rates to trunk line points and those to New England points. It is admitted that under the former sliding scale agreement rates to the east went up and down with the price of iron the same as rates to the west, but the evidence does not show that there is now or ever has been a definite, fixed, and established relationship between the rates under which reductions to western points would by reason of such relationship make necessary similar reductions to the east.

The present rail-and-water rates to New York, Philadelphia, and Baltimore are, per gross ton, \$4.25, \$4, and \$3.85, respectively. The record discloses no direct or competent evidence which would justify a holding that these rates are in themselves unreasonable. It is true

that upon the record of the original hearing we concluded that the relation of rates which then obtained between the west and the east should be maintained, but in the light of the further evidence adduced at the rehearing we find that our former statement in this respect is not justified. We made no finding that the relationship between the rates to trunk line points and those to New England should be maintained, and we do not now find that such should be the case.

From Birmingham the present rail-and-water rates to New York, Philadelphia, and Baltimore apply via the following routes: To New York via rail lines to Savannah and the Ocean Steamship Company beyond, or via rail lines to Norfolk and the Old Dominion Steamship Company beyond; to Philadelphia via rail lines to Savannah and the Merchants & Miners Transportation Company beyond, or via rail lines to Norfolk and the Clyde line beyond; and to Baltimore via rail lines to Savannah and the Merchants & Miners Transportation Company beyond, or via rail lines to Norfolk and the Baltimore Steam Packet Company and the Chesapeake Steamship Company beyond.

It appears that Norfolk is the gateway which largely controls the traffic, although the same rates apply via Savannah. Much the larger volume of the traffic to the east and New England moves via Norfolk. In our original report we referred to the rail-and-water route from Birmingham to Boston, via Savannah, as being, because of the use of computed water mileages, considerably shorter than the rail-and-water route via Norfolk to Boston; and we expressed the opinion that in measuring the reasonableness of the rate to Boston, gauged by the ton-mile earnings, the short-line route should not be ignored. At the rehearing the carriers submitted evidence tending to show that the route via Norfolk is the rate-making route, and that the movement of pig iron to eastern and New England points is largely via Norfolk. It is therefore insisted that the reasonableness of the rate, in so far, at least, as based on revenues produced as compared with service performed, should be determined by the mileage via the Norfolk route. We are not persuaded by the additional evidence, however, that the Savannah route should be eliminated from the calculation, and are still of opinion that, being kept open for the movement of the traffic, it must be given due consideration. As it now appears that the larger movement to eastern and New England points is via Norfolk, that gateway must be considered in connection with the merits of the case. It would seem to be but fair that both gateways should be taken into the account, with emphasis upon the Norfolk route because of the greater mileage and the larger tonnage over this route. In this connection it now appears that the pig-iron rates between the Atlantic ports are not constructed

on a computed water mileage basis, designed for divisional purposes, as is the case generally with high-grade merchandise, but are made to meet competition of eastern pig iron, and to enable iron to move from the south beyond Norfolk in competition with barge lines. The divisional basis applicable to high-grade merchandise traffic does not now apply and never has applied on pig iron, or other low-grade traffic, such as lumber, and similar commodities. Much was said in the testimony on rehearing as to the basis and effect of water computed mileages as relating to the question of reasonableness of the rates. These computed mileages are not on a uniform basis, covering all kinds of traffic, nor are they always the same on the same kind of traffic. It was said that the divisions are usually figured on the proportions of the through rates received by the rail lines and by the water lines, respectively. This was illustrated by a table showing the rates and divisions from Birmingham to New York, Philadelphia, and Baltimore via the Savannah and Norfolk routes. To New York via Norfolk the rail haul is given as 762 miles. The rate is \$4.25 per long ton, and the division to the rail lines is \$2.70 per long ton, with a division to the water lines of \$1.25 per long ton, with terminal or transfer charges at the ports amounting to 30 cents per long ton. These divisions, according to the actual rail mileage, would mean a computed water haul of 359 miles, or a total distance of 1,121 miles. Worked out in this manner, it would appear that the divisions to the water lines beyond Savannah would represent a distance which, together with the all-rail short-line distance to Savannah, would make a distance via the through route of 882 miles, with earnings per long ton per mile of 4.82 mills. Via the Central of Georgia the total distance would be 898 miles, with earnings of 4.72 mills per long ton per mile; and via the Southern Railway, a total distance of 916 miles, with earnings of 4.64 mills per long ton per mile; an average of 4.73 mills per long ton per mile. The total distance through Norfolk, with the computed water mileages being 1,121 miles via the short line, or 1,151 miles via the longer route, the joint rate represents earnings of 3.79 mills per long ton per mile via the short line and 3.69 mills per long ton per mile via the longer route; an average of 3.74 mills per long ton per mile.

From Chicago to New York, a distance of 912 miles, the all-rail rate on pig iron is \$4.98 per ton, representing earnings of 5.46 mills per ton per mile, as compared with the rate from Birmingham to New York of \$4.25 per long ton for an average distance via Norfolk of 1,136 miles, with ton-mile earnings of 4.73 mills through Savannah, and 3.74 mills through Norfolk. Substantially similar results are shown by comparison of the Chicago-New York rates with rates from Birmingham to Philadelphia and Baltimore. Other rate com-

parisons of a similar character were submitted. What has been said with respect to New York applies with equal force to Philadelphia and Baltimore. The distances and ton-mile earnings stated in our original report were based upon constructive mileages, according to the incomplete showing of the record then before us.

The record, as now supplemented, shows that the ordinary basis of computed mileages is not applied on pig iron, but instead an arbitrary basis of divisions is agreed on between the rail lines and the steamship companies. This was the case at the time of the original hearing, but the facts were not brought out in the evidence. Complainants do not question that ton-mile earnings figured on the basis of arbitrary divisions to the water lines are low when transfer and other charges at the ports are deducted, but it is argued that on this low-grade traffic the earnings should be small. The arbitrary divisions on which the water mileage is calculated in this case are apparently of long standing, but are not the same as applied to higher grades of traffic.

In view of the fact that the revenues accruing to the rail lines depend upon divisions of their joint rates with the water lines, considerable testimony was submitted on the subject of divisions, a matter not ordinarily considered of importance except where an issue involving divisions is directly presented. In this connection it was shown that by comparison with divisions received by other lines of railway, those received by the rail lines to Savannah and Norfolk are relatively low. For instance, the rate fixed by the Commission in this case from Birmingham to Louisville, Ky., a distance of about 394 miles, all rail, is \$2.65 per long ton, producing a net ton-mile revenue of 6.02 mills, as compared with the earnings based on the divisions received by the rail lines from Birmingham to Savannah, a distance of 448 miles, which in no case exceeds 4.22 mills per ton per mile. On shipments via Norfolk the division to the Southern Railway is \$2.70 per long ton, and the ton-mile earnings are about 3.5 mills for a distance of nearly 800 miles. Many other similar illustrations are shown of record.

The water lines claim that pig iron is one of the most expensive and troublesome articles they are called upon to handle; that they have no particular desire for the traffic, and handle it as an aid in building up the iron-producing sections and thereby inducing the movement of high-class traffic, rather than for the revenue received from it. The methods of handling pig iron from Birmingham to New York, Philadelphia, and Baltimore, together with the cost of transfer from car to vessel at the southern ports and of unloading and delivering at the ports of destination, were not gone into origi-

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nally, but these matters were covered at length at the rehearing, so that conditions different from those originally shown now appear.

The divisional arbitrary of \$1.25 per long ton for the haul by steamship from Norfolk to New York appears to have been fixed as early as the year 1900. Since that time labor costs and terminal, transfer, lighterage, and other charges at the ports have materially increased. The situation in this respect was fully developed on rehearing.

We are of opinion and find that the rates on pig iron, all rail, and partly by rail and partly by water from the southern furnaces to New York, Philadelphia, and Baltimore and to interior trunk line points have not been shown to be unreasonable, and in the light of the new evidence now of record we do not find that there has heretofore existed any fixed or established relationship between such rates and the rates on pig iron from the same points of origin to the Ohio River and to points in central freight association territory that should be maintained, and the statement contained in our former report on this subject is withdrawn as not sustained in the light of the facts now of record.

As to the rates to Boston, Providence, and other New England points, defendants say that the original record was incomplete, and therefore inadequate to a proper understanding of the situation. The original testimony had to do largely with the demand for southern iron in the New England markets, and the supposed necessity for lower rates in order to induce a movement that would supply such demand, and related to market conditions and the supposed inability of southern iron to reach the northern markets because of competition with iron from near-by furnaces, rather than to the reasonableness in themselves of the rates from the south. Testimony and argument were directed largely to the movement via the Savannah gateway, and the carriers did not make clear the fact that Norfolk and not Savannah was the controlling route, or the further fact, now clearly shown of record, that the divisions of the rates between the rail carriers and those by water are upon a principle which differs from that ordinarily applied to traffic of high grade. These things were gone into and fully explained on the rehearing.

Wharfage and terminal charges on pig iron are deducted at the south Atlantic ports, the charge at Savannah being 40 cents per long ton. These charges were not explained in the original record, nor their importance directly brought to the Commission's attention.

As already pointed out, Norfolk is the rate-making gateway for this pig-iron traffic to the north. Providence is the northern gateway to interior New England points. The principal consuming territory lies within a radius of 40 or 50 miles of Providence, and is

reached by the New York, New Haven & Hartford Railroad and connections. Terminal charges at Providence are lower than at Boston, and by reason of shorter distances to interior destination points the rates are less from the former port, but it is to be noted that Providence is reached by steamship only from Norfolk. As Norfolk is the controlling southern gateway, and has the only steamship line to Providence, the defendants contend that the reasonableness of the rates to Boston and all New England points should be measured by the route through Norfolk and Providence, and not by the route through Savannah and Boston.

It does not appear to have been pointed out at the original hearing that the only rail-and-water route from Birmingham to Providence is through Norfolk, nor was it shown that for this reason Providence is the natural and actual north Atlantic gateway to interior New England points. If therefore the Savannah route is to be given less consideration, as now seems should be done, a different situation from that stated in our original report is presented. This would give to the traffic an actual rail haul of 764 miles from Birmingham to Norfolk and a computed water distance of 409 miles from Norfolk to Providence, making a total haul of 1,173 miles, as against a total distance of 726 miles if the movement were via Savannah.

Of the reduced rate of \$4.25 per long ton to Boston via Norfolk on the existing arbitrary divisional basis the rail lines receive \$2.71 per long ton for the haul of approximately 800 miles to Norfolk, equal to about 3.37 mills per ton-mile. Of the rate to Providence, the rail lines receive \$2.80 per long ton, producing a revenue of about 3.50 mills per ton-mile. Compared with the local rate from Birmingham to Norfolk, which is \$3.25 per long ton, the divisions received from the same haul are materially lower. This local rate is relatively lower than rates from Birmingham to various consuming points in central freight association territory and to other points for somewhat similar distances. It produces less revenue per car than is produced by an average carload of lumber for a similar haul. The record does not show that this local rate is unreasonable or otherwise unlawful.

The earnings via the steamship lines from Norfolk to Boston and other New England points are also given of record, together with the costs of handling at the southern as well as the northern ports. These handling costs do not differ materially from like expenses from Norfolk to New York, Philadelphia, and Baltimore. It was testified that the revenue returns are lower than on other traffic and that under the existing rates they barely cover the cost of handling and transportation. The defendants claim that the

additional facts shown at the rehearing bear out their contention that the original rates from Birmingham to Boston and Providence are not unreasonable.

In the light of the testimony submitted at the rehearing and upon consideration of all the circumstances and conditions of record, we are of opinion and find that the rates formerly in effect to Boston and Providence of \$4.60 per long ton are not unjust or unreasonable.

As stated in our original report, the rates to interior New England points were, prior to that report, the full combinations of the rates to and from the New England ports. It was then admitted, and is now repeated in somewhat stronger terms, by the New York, New Haven & Hartford and Boston & Maine railroads that the through rates thus made up were and are too high, and that some reduction should be made, but with the same insistence now as then that the reductions should be prorated among the carriers participating in the rates on the basis of the revenue received to and from the ports. The admission is not that the local rates are unreasonable in themselves, but that they are unreasonable when applied as a part of the through rates and when compared with rates from Buffalo and producing points in Pennsylvania, in view of the fact that iron from the south is compelled to compete with iron from these northern points. It was further shown that these inland local rates were not originally designed to apply on through traffic, but were intended simply as local rates.

We find that reasonable through rates to interior New England points should not exceed rates which would result from a rate of \$4.50 to the ports plus handling charge of 40 cents per long ton, plus 75 per cent of the local rates now in effect from the ports. The finding made in the original report herein with respect to rates to Springfield, Mass., Portland, Me., and Lowell, Mass., is modified to this extent.

An order will be entered in accordance with the views expressed herein.

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BUFFALO GRAIN CASES.

No. 7187.

BUFFALO CHAMBER OF COMMERCE ET AL.

v.

BUFFALO CREEK RAILROAD COMPANY ET AL.

No. 7197.

SAME

v.

BALTIMORE & OHIO RAILROAD COMPANY ET AL.

Submitted December 2, 1915. Decided July 18, 1917.

1. **Ex lake rates on grain and grain products, domestic and export, from Buffalo to the Atlantic seaboard and interior points in the same general territory, not found to be either intrinsically unreasonable or unduly preferential of Chicago to the prejudice and disadvantage of Buffalo.**
2. **The maintenance of ex rail reshipping rates on domestic and export grain from Chicago to the Atlantic seaboard and interior points in the same general territory, when rates the same in kind are not contemporaneously maintained from Buffalo to the same territory, found to be unduly preferential of Chicago to the undue prejudice and disadvantage of Buffalo.**
3. **The defendants' refusal to accord transit service for the same charge at points east of Buffalo on grain moving from Buffalo as they accord at the same points on grain from Chicago, Toledo, Detroit, Cleveland, and Sandusky found to be unduly prejudicial of Buffalo.**
4. **The defendants required to submit for examination and approval a schedule of ex rail reshipping rates on domestic and export grain from Buffalo; also a schedule of amended transit services and charges free from the inequalities herein found to exist.**

Littleford, James, Ballard & Frost, E. E. Williamson, F. E. Williamson, Jeffery & Campbell, J. S. Brown, L. Richards, R. R. Hargies, Fred J. Lingham, and W. H. Chandler for complainants and interveners.

F. D. McKenney, T. H. Burgess, E. S. Ballard, and S. C. Pratt for defendants.

REPORT OF THE COMMISSION.

HARLAN, *Commissioner*:

The issue before us here has reference to the domestic and export rates, rules, and practices applicable to shipments of grain and its products reshipped from Buffalo to the Atlantic ports, or to interior points in the Atlantic seaboard territory which are usually on a rate parity with the ports. The many considerations urged upon a very broad record seem to require, before approaching the details of the complaints, a general understanding of what appears of record concerning (a) Buffalo's relative position as a grain market; (b) its avenues of transportation; (c) the sources of its grain supply; (d) the consuming territory with which it trades; (e) the commercial competition encountered; and (f) the comparative volume of traffic handled through that market. These matters will be briefly discussed in that order.

THE BUFFALO GRAIN MARKET.

Buffalo became a grain market shortly after the completion of the Erie Canal in 1825. At that time Chicago, which has since grown to be the largest grain market in the country, was only an Indian fort and St. Louis, now an important grain center, was a small trading post. Minneapolis, said to be the greatest flour milling center in the world, was not then in existence. The elevators in Buffalo, all of which are on deep water and with one exception are directly connected with rail lines, have a storage capacity for 20,350,000 bushels of grain, this capacity being exceeded only by the elevators, in the order named, at Chicago, Fort William, Port Arthur, Minneapolis, and Duluth-Superior. Chicago has a storage capacity in elevators connected with rail lines of 41,310,000 bushels, of which 71.5 per cent is on the lake front. Buffalo, with a daily milling capacity of 27,300 barrels of flour, is also the second largest flour milling center in the country, being exceeded in this particular only by Minneapolis.

There are many avenues of transportation to and from Buffalo; 12 railroad lines terminate there, and one line passes through. These carriers with their connections reach from the Mississippi River to the Atlantic coast. In addition there is a natural water route to Buffalo over the great lakes from Chicago, Milwaukee, Duluth-Superior, and other lake ports of less importance. Formerly, when the Erie Canal was extensively used for transporting grain, Buffalo also had a through all-water route from the western lake ports to New York City; and while the canal part of that route is not at present in use, the improvements now being made by the state of New York give to the canal route potential qualities that are said

to hold in check the all-rail grain rates from the west to the east. It thus will be seen that Buffalo is not only ideally situated from a transportation standpoint, but that it is also well equipped for handling a large share of the country's annual grain crop.

Some grain is brought to the Buffalo market from central freight association territory. But by far the greater part of its grain supplies is drawn from territory tributary to the great lakes and originates west of the Lake Michigan and the Lake Superior ports. From that territory the grain is shipped to Buffalo principally through other important primary grain markets, such as Chicago, Milwaukee, Peoria, Minneapolis, Duluth-Superior, St. Louis, and Kansas City. Some of the western grain, however, and nearly all that originates in central freight association territory, is shipped directly to Buffalo from the country elevators without passing through other primary markets. The Buffalo mills grind spring wheat grown in Minnesota, South Dakota, and North Dakota; to a lesser extent they use hard winter wheat from Kansas, Nebraska, and Oklahoma, and some soft winter wheat grown in Illinois. The spring wheat is purchased largely in Duluth and is shipped by lake, while most of the winter wheat is purchased in Chicago and Kansas City and is shipped to Buffalo either by lake, rail and lake, or all rail.

The principal domestic markets for the products milled from grain in Buffalo, and also for grain reshipped from Buffalo, are New York, Pennsylvania, and the New England states. An important exception, however, is grain from the southwest, such as winter wheat, which is either sold locally in Buffalo or reshipped to milling points less distant from Buffalo than the principal markets just mentioned. Because of the rate adjustment, it is said that Buffalo does not do a very extensive export business in either grain or its products. These commodities when exported are handled chiefly through the ports of New York City, Philadelphia, and Baltimore and are not dealt in on the Buffalo market. The Washburn-Crosby Company, for example, although it has large mills at Buffalo, supplies its export trade from its Minneapolis mills unless exceptional circumstances make it more convenient to fill such orders from Buffalo.

In the purchase of grain and in the sale of grain and grain products Buffalo comes into active competition with Chicago, the other markets heretofore mentioned, and with the smaller markets and milling centers throughout the central freight association territory. In supplying the demands of the nonproducing eastern states and of foreign countries, each grain market comes into competition, to an appreciable extent at least, with every other grain market. The same is true of the markets for flour and grain products. In *Bulte Milling Co. v. C. & A. R. R. Co.*, 15 I. C. C., 351, 355, it was found

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that the capacity of the flour mills of this country is approximately twice our home consumption, and the record here under consideration shows that the actual output at this time is one-third greater than our domestic needs. It naturally follows that competition is intense and the margin of profit usually small. The supply and demand in New York City, the largest domestic consuming market, practically fixes the price of flour for the entire country, and the western and eastern millers must gauge their price to some extent by the price prevailing at that market. It is in this eastern territory, the hotbed of commercial competition, that Buffalo must manage to do its domestic grain and grain products business. In the export trade it must also meet the competition of all other primary markets, and the extent to which this may be done successfully depends in a measure upon the rates of transportation.

Although boat competition on a natural waterway usually cheapens transportation, and therefore in reaching Buffalo from Chicago it is reasonable to presume that a substantial share of the traffic would move over the lakes, the tendency in recent years has been the opposite. During the eight years from 1898 to 1905, inclusive, the east-bound movement of grain from Chicago aggregated 1,527,556,000 bushels, of which 752,907,000, or 49.3 per cent, moved by lake and 774,659,000, or 50.7 per cent, moved by rail. During the next eight years, from 1906 to 1913, inclusive, the total movement increased to 1,528,805,000 bushels, of which only 440,326,000 bushels, or 28.8 per cent, moved by lake, while 1,087,725,000 bushels, or 71.2 per cent, moved by rail. During the first eight-year period Buffalo received by lake from Chicago 506,467,000 bushels, representing 33.2 per cent of the total eastbound shipments by lake and by rail from that market. During the next eight-year period the receipts at Buffalo by lake from Chicago decreased to 271,265,000 bushels, being only 17.7 per cent of the total eastbound shipments from that market.

THE COMPLAINTS.

Buffalo attributes this marked decrease in the movement from Chicago of grain by lake, and the corresponding increase in the movement by rail, to a gradual change since about 1906 in the relative adjustment of the rail rates east from Buffalo and Chicago, the rates from Buffalo having been increased and the rates from Chicago decreased. It is strongly urged that these changes, which have culminated in the present adjustment, were designed to drive the grain from the lakes and compel it to move eastward from Chicago over the rail routes, rather than by the lake-and-rail routes, and that the result has been in a large measure to destroy the economical effective-

ness of the lake competition and also to stifle the ex lake grain business of the Buffalo market.

Two complaints were filed by the Buffalo Chamber of Commerce and the Corn Exchange of Buffalo, voluntary associations of grain dealers, millers, and malsters doing business at Buffalo, and all the lines participating in the movement of grain and grain products from Buffalo and from Chicago to New York City, Philadelphia, Baltimore, and points taking the same rates, were made parties defendant. The complaints differ only in the particular that the first deals with the rate adjustment on ex lake grain and grain products, domestic and export, from Buffalo to New York City and points taking the same rates, while the second involves the same rate adjustment in its differential application from Buffalo to Philadelphia, Baltimore, and points taking the same rates.

The issue in both cases, tersely stated in the complainants' brief, is that the prevailing rate adjustment unduly prefers the grain dealers, millers, and malsters at Chicago, to the prejudice and disadvantage of the grain dealers, millers, and malsters at Buffalo, in violation of section 3 of the act to regulate commerce. In order more clearly to define their position, counsel for the complainants stated in oral argument that—

In the allegations of our petition and the argument contained in our main brief we have not sought to charge nor to sustain a proposition as to whether these rates from Buffalo to the points of destination named are just and reasonable *per se*, the charge being that these rates are relatively out of proper relationship and out of proper adjustment with each other * * *. So that the issue may be well defined in the beginning as to what our contentions are, as alleged in our petitions and supported in our testimony and argued in briefs, it is that these rates from Buffalo to points of destination, taking New York as typical, are out of proper relationship and out of adjustment with rates on the same commodity from Chicago to the same points of destination in violation not merely of section 3 of the act but in violation of section 1 of the act.

INTERVENERS.

The Board of Trade of the City of Chicago intervened, alleging that the "ex lake" rates on domestic and export grain from Buffalo to New York City, Philadelphia, Baltimore, and Boston, and points taking the same rates, are in and of themselves unreasonable. The New York State Millers' Association and the Pennsylvania State Millers' Association intervened generally in behalf of the complainants. The Quaker Oats Company, of Akron, the Indianapolis Board of Trade, and the Toledo Produce Exchange intervened for the purpose of protecting the interests of the markets and milling centers in central freight association territory that compete with Buffalo in the eastern trunk line territory. The Boston Chamber of Commerce intervened to preserve the present port differentials as between Bos-

ton on the one hand and New York City, Philadelphia, and Baltimore on the other hand. But since no specific complaints were filed, and no substantial evidence introduced in respect of the questions raised by the five interveners last named, it will be unnecessary further to discuss them in this report.

THE RELIEF SOUGHT.

In reference to domestic traffic the record as a whole presents four separate matters for consideration: (1) Whether the present relation, as between ex lake rates from Buffalo and the reshipping rates from Chicago to the points of destination named, gives to Chicago an undue preference and advantage to the prejudice and disadvantage of Buffalo within the meaning of section 3 of the act; (2) the propriety of requiring the establishment and maintenance of ex rail reshipping rates from Buffalo, so long as such rates, in kind, are contemporaneously maintained from Chicago; (3) the justification for a denial of a transit arrangement east of Buffalo on grain shipped from Buffalo at the ex lake rate; also the assessment of a higher charge for the transit service at points east of Buffalo on grain forwarded from Buffalo at the local rate, than is charged for precisely the same service at the same points on grain moving from Chicago on reshipping rates; and (4) the question raised in one of the intervening petitions, as to the reasonableness *per se* of the ex lake rates from Buffalo.

Under the first and second of the enumerated contentions we are asked to prescribe ex lake and ex rail reshipping rates from Buffalo to New York on the basis of 53 per cent of the reshipping rate contemporaneously maintained from Chicago to New York, this percentage, under the McGraham scale, being substantially the present relation of the Buffalo-New York class rates to the Chicago-New York class rates. We also are requested to prescribe rates similar in kind to Philadelphia and Baltimore, but on a basis somewhat lower than to New York City. In respect of the third issue we are asked to require the defendants to establish and maintain, for the same charge, at points east of Buffalo, on grain moving from Buffalo under either the ex lake or ex rail reshipping rates, the same transit arrangement that is accorded at the same points on grain which moves from Chicago under the reshipping rates. In a broad sense these same matters are presented for consideration, and the same relief is asked, in reference to the export rate adjustment.

THE RATE ADJUSTMENT.

The proceeding involves no question concerning the rail rates into the western primary markets or lake ports. No joint lake-and-rail rates on grain are maintained from the western lake ports through Buffalo to the east. The through charge over the lake-and-rail route is the sum of the separate charges to and from the lake ports. The lake part of the through transportation is performed largely by "tramp" boats at contract rates fluctuating with the competitive influences and which are not tied to the rail rates in such a way as to subject them to the regulatory provisions of the act. In addition to the charge for the lake service there is encountered the expense of (1) elevation and storage at the western port pending sale and awaiting the boat; (2) marine insurance; and (3) elevation at Buffalo. The charges for the rail service east of Buffalo are designated in the tariffs of the carriers as "ex lake rates" and are restricted in their application, as their name implies, to grain that has reached Buffalo over the lakes. These rates are generally published in cents per bushel, but for convenience in this discussion they will here be expressed in cents per 100 pounds. If the grain is given a transit service east of Buffalo, the local, instead of the ex lake rate, is applied and in addition thereto a separate transit charge is assessed. Through all-rail rates are maintained from the western primary markets to the east, which generally include terminal services, such as foreign line switching, elevation, lighterage, and to some extent a transit service. These rates apply through Buffalo with transit at that point. With this general view of the rate adjustment in mind, and without enumerating the separate charges, we are led to a comparison of the rail rates from Chicago and Buffalo, and also of the all-rail rates from Chicago, with the aggregate charges over the lake-and-rail route through Buffalo. These comparisons are intended to illustrate in a broad sense the alleged disadvantages of which Buffalo complains. The rail rates shown are those in effect March 23, 1917, and in most cases are higher than the rates of which complaint was originally made.

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TABLE No. 1.—Comparison of rates on grain and grain products from Chicago and Buffalo, respectively, to New York, Philadelphia, and Baltimore, in effect March 23, 1917 (rates stated in cents per 100 pounds).

A. LOCAL RATES, APPLICABLE TO DOMESTIC SHIPMENTS.

Commodity.	To New York.		To Philadelphia.		To Baltimore.	
	From Chicago.	From Buffalo. ¹	From Chicago.	From Buffalo. ¹	From Chicago.	From Buffalo. ¹
Wheat.....	21.8	11.6	19.8	11.1	18.8	11.1
Corn.....	21.8	11.6	19.8	11.1	18.8	11.1
Oats.....	21.8	11.6	19.8	11.1	18.8	11.1
Rye.....	21.8	11.6	19.8	11.1	18.8	11.1
Barley.....	21.8	11.6	19.8	11.1	18.8	11.1
Flour.....	22.5	11.6	20.5	10.5	19.5	10.5
Other grain products.....	22.5	11.6	20.5	10.5	19.5	10.5

B. LOCAL RATES, APPLICABLE TO SHIPMENTS FOR EXPORT.

Wheat.....	20.3	-----	19.3	-----	18.8	-----
Corn.....	20.3	-----	19.3	-----	18.8	-----
Oats.....	20.3	-----	19.3	-----	18.8	-----
Rye.....	20.3	-----	19.3	-----	18.8	-----
Barley.....	20.3	-----	19.3	-----	18.8	-----
Flour.....	21.5	10.5	20.5	10.5	19.5	10.5
Other grain products.....	22.5	10.5	20.5	10.5	19.5	10.5

C. RESHIPING RATES (FROM CHICAGO) EX LAKE RATES (FROM BUFFALO), APPLICABLE TO DOMESTIC SHIPMENTS.

Wheat.....	16.8	11.33	14.8	11.33	13.8	11.33
Corn.....	16.8	9.82	14.8	9.82	13.8	9.82
Oats.....	16.8	13.12	14.8	12.34	13.8	12.34
Rye.....	16.8	11.25	14.8	11.25	13.8	11.25
Barley.....	16.8	11.46	14.8	11.46	13.8	11.46
Flour.....	17.5	-----	15.5	-----	14.5	-----
Other grain products.....	17.5	-----	15.5	-----	14.5	-----

D. RESHIPING RATES (FROM CHICAGO) EX LAKE RATES (FROM BUFFALO), APPLICABLE TO SHIPMENTS FOR EXPORT.

Wheat.....	15.3	11	14.3	11	13.8	11
Corn.....	15.3	9.46	14.3	8.93	13.8	8.93
Oats.....	15.3	12.19	14.3	11.56	13.8	11.56
Rye.....	15.3	10.89	14.3	10.36	13.8	10.36
Barley.....	15.3	10.83	14.3	10.42	13.8	10.42
Flour.....	16.5	-----	15.5	-----	14.5	-----
Other grain products.....	17.5	-----	15.5	-----	14.5	-----

¹ In the tariffs rates from Buffalo are stated in cents per bushel. They are here reduced to cents per 100 pounds.

TABLE 2.—*Comparison of the all-rail reshipping rates from Chicago to New York, Philadelphia, and Baltimore, with the lake-and-rail rates through Buffalo to the same points.*

[Rates are here shown in cents per 100 pounds. In the tariffs the rates from Buffalo on grain are stated in cents per bushel.]

DOMESTIC SHIPMENTS, NOT MILLED IN TRANSIT.

Commodity.	To New York.		To Philadelphia.		To Baltimore.	
	All rail.	Lake and rail.	All rail.	Lake and rail.	All rail.	Lake and rail.
Wheat.....	16.80	16.35	14.80	16.35	13.80	16.35
Corn.....	16.80	14.41	14.80	14.41	13.80	14.41
Oats.....	16.80	20.46	14.80	19.68	13.80	19.68

DOMESTIC SHIPMENTS, MILLED IN TRANSIT EAST OF CHICAGO AND BUFFALO.

Wheat.....	18	18.70	16	18.20	15	18.20
Corn.....	18	18.33	16	17.83	15	17.83
Oats.....	18	21.75	16	21.25	15	21.25

EXPORT SHIPMENTS, NOT MILLED IN TRANSIT.

Wheat.....	15.30	16.02	14.30	16.02	13.80	16.02
Corn.....	15.30	14.05	14.30	13.52	13.80	13.52
Oats.....	15.30	19.53	14.30	18.90	13.80	18.90

EXPORT SHIPMENTS, MILLED IN TRANSIT EAST OF CHICAGO AND BUFFALO.

Wheat.....	18	18.70	16	18.20	15	18.20
Corn.....	18	18.33	16	17.83	15	17.83
Oats.....	18	21.75	16	21.25	15	21.25

DOMESTIC SHIPMENTS.

Flour ¹	17.50	19.145	15.50	18.045	14.50	18.045
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EXPORT SHIPMENTS.

Flour ¹	² 16.50	18.045	15.50	18.045	14.50	18.045
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¹ All rail: Rates from Chicago on flour milled from wheat originating west of Chicago. Lake and rail: Charges on wheat to Buffalo plus rate on flour east of Buffalo.

² Other grain products, 1 cent higher.

As hereinbefore stated, the complainants contend that the ex lake and the ex rail rates on grain from Buffalo to New York City should bear the same percentage relation to the Chicago reshipping rates as the class rates from Buffalo to New York City bear to the class rates from Chicago to New York City. Much evidence was offered in support of this theory and it was strongly urged upon the argument; but no claim was made by the complainants that the rates from Buffalo to New York City are unreasonable *per se*, and no evidence to this effect was offered by them. It is their contention that the Buffalo rates are unreasonable because they are out of proper

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relationship and out of proper adjustment with rates from Chicago. The Chicago interveners, however, assert that the ex lake rates from Buffalo are unreasonable *per se* and that "the rates from Buffalo on ex lake grain should be made reasonable and without any regard whatever to the rate from Chicago, which is made under entirely different circumstances and conditions." It is further asserted by the interveners that the rates from Chicago are made "without regard to what is charged east of Buffalo on ex lake grain," and that the "reshipping rates from Chicago, regardless of the amount of the rate, must be so adjusted as to balance with rates from other western markets, such as Peoria and St. Louis, which compete for the grain grown in the western section for distribution through Atlantic ports for export and to eastern states for domestic consumption." It is clear, therefore, that Buffalo desires rates that will cause the grain traffic to move to and be dealt in at Buffalo; while Chicago desires rates east of Buffalo which, when added to the lake charges from Chicago to Buffalo, will make a lower aggregate charge than the present all-rail rates from Chicago.

It appears from the record that in 1914 the increases since 1907 in the grain rates from Illinois to the Atlantic seaboard had reached approximately 10 per cent, while in the same period the increases from Buffalo were greater. Pointing to this fact in support of their contention that the rates from Buffalo are unreasonably high, the Chicago interveners, in building up a proposed rate for the future, selected the highest rates on the several grains from Buffalo to New York City for the period 1902 to 1906, inclusive, added 10 per cent to them and surcharged the result with a small amount for the purpose, as explained, of being liberal. The rates so constructed, which are lower than the rates complained of, we are asked to prescribe as maximum rates for the future from Buffalo to New York City. Under this method each of the different grains would take a different rate from Buffalo, and it is the opinion of the Chicago interveners that such an adjustment is proper, "owing to the long observance of differentials between the rates on wheat, corn, and oats from Buffalo to New York and other eastern points." For the reason that only one rate is applicable to all kinds of grain reshipped from Chicago, the complainants urge the percentage method, which would result in the same rate on all kinds of grain from Buffalo. The adoption of the percentage plan would mean that any future change in the Chicago rates would require a like change in the Buffalo rates.

The carriers take the position that in *New York Produce Exchange v. N. Y. C. & H. R. R. Co.*, 32 I. C. C., 212, the ex lake export rates on grain from Buffalo were found not to be unreasonable; also that on export traffic from Buffalo to Philadelphia and Baltimore, the ex lake

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rate differentials under New York City were established in *Chamber of Commerce of New York v. N. Y. C. & H. R. R. Co.*, 24 I. C. C., 55, 77. It appears that the differentials suggested in that case were made effective and are still being maintained. Reference also is made to a number of other decisions by the Commission which dealt directly or indirectly with the questions here involved, and it is said that there have been no changes in conditions which would justify any changes in the present rate adjustment.

We are not prepared to accept the theory advanced by the complainants of fixing the rates on grain from Buffalo at a fixed percentage of the rates from Chicago. It is our understanding that the rates in effect from Buffalo restrict the rate that can be maintained from Chicago. Ordinarily the all-rail rate on grain from Chicago to New York City, and also to other north Atlantic ports, could not greatly exceed the aggregate lake-and-rail charges through Buffalo from Chicago; therefore the rail rate east from Buffalo must be regarded as controlling to some extent the measure of the all-rail rate that may contemporaneously be maintained from Chicago. It appears to be true that the rates from Buffalo since about 1907 have been increased by a much greater percentage than have the Chicago rates, and it is quite possible, as intimated of record, that the carriers in establishing this rate adjustment had in mind a diversion of a portion of the grain tonnage from the lake to the all-rail routes. But in the absence of a definite showing that the rates from Buffalo are unreasonable or unduly preferential we would not be justified in requiring the carriers to reduce them. When rates are otherwise reasonable, the Commission can not properly require a readjustment merely to influence the movement of a fixed percentage of grain through a particular market. All that Buffalo may fairly expect is rates that are reasonable in themselves and under which other markets are not given an undue preference. Under such conditions the failure of grain to move in a satisfactory volume can not be attributed to a maladjustment of rates.

Upon the evidence adduced of record we are of opinion and find that the ex lake rates, domestic and export, from Buffalo to the eastern markets have not been shown to be either unreasonable or unduly preferential of Chicago to the prejudice and disadvantage of Buffalo.

EX RAIL RATES.

The second principal contention of the complainants is, as before explained, that Buffalo is placed at an undue disadvantage by the failure of the defendant carriers to maintain ex rail reshipping rates from that point, when such rates are maintained from Chicago. It is urged that Buffalo, like Chicago, should be a rate-breaking point,

and from that market to New York City reshipping rates should be established on the basis of 53 per cent of the reshipping rates contemporaneously maintained from Chicago to New York City, a corresponding adjustment to be made in the rates from Buffalo to the other Atlantic ports and eastern markets. In other words, Buffalo desires that the same reshipping rates be applied on both ex rail and ex lake grain. This request is predicated largely on the natural position of Buffalo, which, as before explained, is probably the oldest primary grain market in the United States. It is situated at the western terminus of the Erie Canal and at the eastern end of Lake Erie. Before the defendant carriers' rail lines were built grain from the western territory was moved by boat over the great lakes to Buffalo, where it was transferred to barges and thence moved through the Erie Canal and upon the Hudson River to the Atlantic seaboard. When the railroads were constructed, Buffalo became the terminal of both the eastern and western lines, and in the summer of 1915, when the New York Central was merged with the Lake Shore & Michigan Southern, Buffalo was either the eastern or the western terminal of each of its 14 railroads. Although 12 railroads at the present time terminate at that market, as before pointed out, it is served by only one through line. It is also on the dividing line between the two principal rate territories, namely, the central freight association territory on the west and the trunk line territory on the east. Lastly, the railroads which serve it either publish or concur in the reshipping rates from Chicago.

Under established transit arrangements grain en route from the west by rail to points taking New York, Philadelphia, and Baltimore rates may either be reconsigned at Buffalo for a nominal charge or be stored there and reshipped during a maximum period of 12 months. If the grain is milled or otherwise manufactured into products at Buffalo, the transit charge is one-half cent per 100 pounds. This transit arrangement, however, applies only to shipments moving under through rates. Some of the lines reaching Buffalo from the west do not maintain joint through rates in connection with any line from Buffalo to the east; other lines reaching Buffalo from the west do not publish joint through rates in connection with all lines radiating from Buffalo; and no line reaching Buffalo from the west publishes joint through rates to points east of Buffalo in connection with the Pennsylvania Railroad, which reaches the largest number of Philadelphia and Baltimore rate points. It is therefore apparent that the available supply of grain at Buffalo may be held on western lines while the only markets calling for that grain may be points on the lines east of Buffalo that have no joint through rates with the western lines holding the grain.

The defendants contend that Buffalo is not a natural rate-breaking point and is not therefore entitled to ex rail reshipping rates. They further contend that the establishment of specific or reshipping rates from Buffalo would have the effect of disrupting the entire grain and grain products rate structure throughout the central freight association territory and the territory west thereof. We think, however, that this latter contention is more or less conjectural. Within the last few years reshipping rates were promulgated from Cleveland, Sandusky, Toledo, and Detroit without unduly disrupting the general rate structure, and such rates also have been established at other points with wholesome effect.

In *Toledo Produce Exchange v. A. A. R. R. Co.*, 27 I. C. C., 536, 541, where it was shown that Toledo possessed all the attributes of a rate-breaking point, and therefore was asking for reshipping rates, we took occasion to point out that the line of demarcation between the so-called rate-breaking points and other points was not always natural or real, but purely artificial and arbitrary. Many grain centers are now rate-breaking points because the carriers have made them so by giving them reshipping rates and not because of special characteristics which do not exist at other points.

On the other hand, many centers possessing all the attributes of rate-breaking points have been denied reshipping rates. Even Chicago, the largest grain market in this country, was not a rate-breaking point in the full sense of that term until the year 1910, when, by the joint action of the carriers, including the defendants here, reshipping rates were made on grain and its products from that point. If, because of special characteristics, a market is entitled to reshipping rates, Buffalo should have them. Aside, however, from the question of the right of a grain market to have reshipping rates, and aside from the measure of the rates into and out of the rate-breaking points, it is obvious that such a system is more simple, easier of application, and less subject to abuse than any system involving transit arrangements with their attending complexities and difficulties of enforcement.

Upon the evidence before us in respect of this question we conclude and find that Buffalo and its dealers in grain and grain products are subjected to undue prejudice by the failure of the defendant carriers to maintain ex rail reshipping rates on grain and grain products, both domestic and export, while such rates are contemporaneously in effect from Chicago, Cleveland, Sandusky, Toledo, and Detroit. We shall therefore expect the defendant carriers to prepare and submit to the Commission for its approval on or before October 1, 1917, a schedule of such ex rail reshipping rates from Buffalo to the eastern markets here under consideration in general harmony with the

present ex rail reshipping rates on those commodities from Chicago and the other lake ports just named.

TRANSIT ARRANGEMENTS EAST OF BUFFALO.

Ex lake grain from Buffalo, in order to secure transit at points east thereof, must be billed at the full local rates, which are higher than the ex lake rates, and must also pay a transit charge of 1½ cents per 100 pounds; while ex lake or ex rail grain from Chicago is required to pay only one-half cent per 100 pounds for the same transit service at the same points. Although transit is not permitted on grain moving under the ex lake rates from Erie, Cleveland, Toledo, and Detroit, it nevertheless is permitted at points east of Buffalo under the local rates from Erie, and also under the reshipping rates from Cleveland, Toledo, and Detroit, the charge for such service being only one-half cent per 100 pounds, which is the same as the transit charge under the reshipping rates from Chicago.

The record shows that the ex lake rates from Buffalo to the eastern markets in question are the same as or lower than like rates contemporaneously maintained from Erie, Cleveland, Toledo, and Detroit, through Buffalo; but that the aggregate charges on ex lake grain, when destined to the same markets and accorded the same transit service at the same points east of Buffalo, are nevertheless generally higher from Buffalo than from the other lake ports mentioned. Transit, as before explained, is not permitted under ex lake rates from Cleveland, Toledo, and Detroit, but the reshipping rates apply when the ex lake grain is milled at those ports. A further showing of record is that the rates on ex lake wheat from Buffalo to the Atlantic ports, when milled in transit at points east of Buffalo, are greater than the rates on flour from Buffalo to the same points, and also are greater in most cases than the lake-and-rail rates on flour from Chicago to the Atlantic ports.

The defendant carriers take the position that the identical issues here raised in respect of the transit service were disposed of in *Mixed Car Dealers Asso. v. D., L. & W. R. R. Co.*, 33 I. C. C., 133. The issues in that case, however, involved only the intrinsic reasonableness of (a) the defendants' tariff rules which denied the transit service on grain from Buffalo moving under ex lake rates; and (b) the transit charge of 1½ cents per 100 pounds at certain points in the states of New York and eastern Pennsylvania. The case here under consideration presents a distinctly different question. It is urged that Chicago is unduly preferred to the prejudice and disadvantage of Buffalo within the meaning of section 3, (a) by the refusal of the defendants to allow transit service under the ex lake rates from
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Buffalo at points east thereof, while contemporaneously allowing such a service at the same points under the reshipping rates from Chicago; and (b) by imposing a transit charge of $1\frac{1}{4}$ cents per 100 pounds on Buffalo grain, as compared with only one-half cent per 100 pounds on Chicago grain, for the same transit service at the same transit points. The defendants offered no justification for this apparent discrimination; nor does any reason appear of record why Buffalo should not have, under ex lake rates, the same transit service that is furnished under the rates from Chicago and also from Cleveland, Sandusky, Toledo, and Detroit.

In respect of this phase of the case we conclude and find from the evidence that the complainants' contention is well founded and that they are subjected to undue prejudice and disadvantage through the failure and refusal of the defendants to provide in their tariffs transit services, rules, regulations, and charges at points east of Buffalo in general conformity with the transit services and charges available at such points on grain from Chicago, Cleveland, Toledo, Sandusky, and Detroit. The defendant carriers will, therefore, be required on or before November 1, 1917, to submit for examination and approval by the Commission a schedule of transit services, rules, regulations, and charges for the Buffalo shippers at points east of Buffalo in general harmony with the present transit charges, rules, and regulations at the same points on grain moving from the markets just mentioned.

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SECOND DULUTH CASE.

No. 8628.

COMMERCIAL CLUB OF THE CITY OF DULUTH ET AL v. PENNSYLVANIA COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATIONS Nos. 938,
1563, 1565, 1572, 1773, 1777, 1787, 2151, 2060, 2139, AND 4303.

Submitted February 10, 1917. Decided June 21, 1917.

Upon complaint that the rail-and-lake class and commodity rates to Duluth from all points in trunk line territory and from all points in central freight association territory are unjust and unreasonable and unduly discriminatory and prejudicial of the locality of Duluth and to shippers thereat; *Held:*

1. Such rates are not shown to have been or to be unjust and unreasonable.
2. Such rates from certain points in trunk line territory that are higher than the rates from the same points to Chicago found to be unduly prejudicial of Duluth and unjustly preferential to Chicago.
3. Class differentials in the rates to Duluth under rates to the twin cities of St. Paul and Minneapolis, heretofore found reasonable and now observed, are on the six classes in cents per 100 pounds 21, 18, 13, 8, 7, and 5. Commodity rail-and-lake rates to Duluth in excess of rates obtained by deducting the class differential of the classification of such commodity from the contemporaneously named rates to the twin cities found to be unduly prejudicial of Duluth and preferential to the twin cities.
4. Reparation denied.
5. Applications for authority to continue to charge for the transportation of all freight from points of origin in official classification territory to Minneapolis, Minn., and St. Paul, Minn., and points taking the same rates, over rail-and-lake, lake-rail-and-lake, and lake-and-rail routes through Lake Superior or Lake Michigan ports, class and commodity rates which are lower than the rates contemporaneously maintained on like traffic to intermediate points over the same routes and through the same ports, granted in part, denied in part, and in part reserved for further consideration.

Francis W. Sullivan and G. Roy Tall for complainants.

W. P. Trickett for Minneapolis Traffic Association.

J. H. Beek and E. H. Berg for St. Paul Association of Commerce.

H. E. White for Minneapolis Steel & Machinery Company.

Ernest S. Ballard and M. B. Pierce for trunk lines and central freight association lines; and the Western Transit Company, Erie & Western Transportation Company, and Mutual Transit Company.

Isaac H. Mayer for Great Lakes Transit Corporation.

W. L. Jenks and *W. S. Jenks* and *W. J. Buchanan* for Northwestern Steamship Company.

A. F. Cleveland for Chicago & North Western Railway Company.

J. G. Morrison for Chicago Great Western Railroad Company.

R. G. Brown for Chicago, Rock Island & Pacific Railway Company and its receiver.

S. L. Strauss for Central Vermont Railway Company and Grand Trunk Railway system.

P. W. Burnham for Great Northern Railway Company.

Richard L. Kennedy for Chicago, St. Paul, Minneapolis & Omaha Railway Company.

L. R. Capron for Northern Pacific Railway Company.

A. H. Lossow and *J. H. Rees* for Minneapolis, St. Paul & Sault Ste. Marie Railway Company.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

This proceeding is a renewal of the efforts the city of Duluth has been making for some years to secure a rate adjustment that properly accords with its location at the head or western extremity of the great lakes. By way of the lakes the route from Buffalo to Duluth is 985 miles in length; and there are various intervening lake ports through which traffic may move between Duluth and practically the whole of official classification territory lying east of the Indiana-Illinois state line, over rail-and-lake routes that do not differ greatly in length from the all-rail hauls between the same points. This practical parity in the length of the various routes is accompanied by a further condition that is favorable to Duluth, because of the fact that the movement of commerce by water is relatively less expensive than its carriage by rail. These advantages, as Duluth contends, were not reflected in the rates in effect when the complaint was filed.

The specific grounds of complaint are as follows:

(a) All class and commodity rail-and-lake rates from all points in official classification territory to Duluth are unjust and unreasonable.

(b) Such rates are unduly preferential of Chicago and also of Minneapolis and St. Paul, hereinafter referred to as the twin cities, and are unduly prejudicial of Duluth.

(c) The local class and commodity rates from Duluth to the twin cities are unjust and unreasonable, unduly discriminatory and prejudicial of Duluth.

With respect to the last item of complaint no evidence was offered by either party to the proceeding; and as that issue is involved in *Commercial Club of Duluth v. B. F. & I. F. Ry. Co.*, Docket 7845, now pending, it will require no discussion in this report. Certain methods are suggested by the complainants by which appropriate relief may be had from the alleged unlawful rates described

in the other two items. Reparation is also demanded. In addition, the complaint embraces a prayer for proportional rates. The fourth section applications of some of the defendants were also heard upon the same record. These matters are considered in what follows:

In *Commercial Club of the City of Duluth v. B. & O. R. R. Co.*, 27 I. C. C., 639, hereinafter referred to as the *Duluth Case*, practically similar issues were involved. It was there said (p. 653):

We, therefore, find that any scale of rail-and-lake rates to Duluth in excess of the rail-and-lake rates to Chicago, from trunk line territory, is and for the future will be unduly discriminatory against Duluth and therefore unlawful. We also find on the record that in and of themselves the present scale of rail-and-lake class rates to Duluth, from trunk line and central freight association territories, is excessive and that any class rates in excess of a 62-cent scale from New York will be unreasonable rates for the future. We have used the scale of rates from New York to Duluth as typical of this rate structure; but it will be understood that we also find the class rates to Duluth from all other points east of the Indiana-Illinois state line to be unreasonable, and those rates for the future must be reduced so as to bear about the same relation to the rates from New York here fixed for the future as the present rates from those points bear to the present rate from New York to Duluth.

In dealing with the other main feature of that case, it was said (p. 657):

Upon the whole record we find that there is an undue discrimination against Duluth in the narrow spread between its through rates on traffic from the east and the through rates to the twin cities on similar traffic. This discrimination will be relieved in large measure by the reduction which we here require in the through rates to Duluth. When these lower rates shall have been put into effect the relation of rates will be as follows:

New York to—						
Twin cities.....	83	72	54	38	32	26
Duluth.....	62	54	41	30	26	21
Differentials.....	21	18	13	8	7	5

It will be observed that these differentials will be on a 6-cent scale over the present differentials; but they will exceed the present divisions of the northwestern lines only on a scale of 2.8 cents. The maintenance of these increased differentials for the future on traffic from the territories of origin involved here will to some extent remove the undue discrimination of which Duluth complains and which we find on the record to exist. As we have said heretofore the class rates have been used throughout this report as typical of the rate structure, and it will be understood that the carriers are expected to make a similar revision as to their commodity rates.

In *The Twin Cities Cases*, 33 I. C. C., 577, announced nearly two years after the case just cited, there was under consideration a 90-cent scale of class rates, from trunk line and central freight association territories to the twin cities, proposed by the carriers in place of the then existing 83-cent scale. In finding that the higher scale had not been justified and in disposing of the other matters involved in the complaint we adhered to the conclusions announced in the *Duluth Case*, *supra*, and said (p. 586):

In the *Duluth Case*, *supra*, we indicated that our findings were applicable as well to the commodity rates as to the class rates; but as the record was not sufficient to enable us to state specific commodity rates to the twin cities we called upon the carriers to apply the principles of the case to their commodity rates. The respondents, however, took no action, and of this much complaint has been made informally. We again hold with respect to commodity rates to the twin cities that the general principles here announced are applicable as well to those rates as to the class rates. We shall therefore look to the carriers to propose and submit a schedule of commodity rates to Duluth and to the twin cities in which due regard shall be given to the findings herein respecting the commodity rates to Duluth based upon the new class rates to that point and the commodity rates to the twin cities based upon the differentials herein fixed.

Summarizing the findings in those two proceedings, it appears that we held (a) that the rail-and-lake class rates to Duluth from trunk line territory should not exceed the rail-and-lake class rates to Chicago; (b) that the rail-and-lake class rates to Duluth from points east of the Indiana-Illinois state line should be less than the rail-lake-and-rail class rates to the twin cities by the amount of the 21-cent scale of class differentials fixed in the *Duluth Case*; and (c) that the differentials on commodities should be that of the class to which the commodities respectively belong. It was also found that from all points in the territory above described the new class rates should bear the same relation to the class rates prescribed from New York as theretofore had existed.

In many particulars, however, the defendant carriers have not complied, at least until recently, with these findings. Rates from what is known as the Cumberland group were not reduced to the Chicago basis until June 5, 1916, long after this complaint was filed and when the Baltimore & Ohio published class rates from that group with the Great Lakes Transit Corporation, thus bringing about the equalization required in the *Duluth Case* by increasing the Chicago rates to the Duluth basis. The relationship to the New York rate was not applied from Johnstown, Loyalhanna, Connellsville, and McKeesport, in the state of Pennsylvania, nor at all from Erie and Westport, in that state, or from Bedford, Youngstown, and Cleveland, in the state of Ohio, until, on the effective date of the tariff above mentioned, class rates from these points to Duluth and the twin cities were published on the basis of the prescribed differentials. The rates from the Pittsburgh group were not established on the Chicago basis. Other deviations from the principle announced in the previous reports are shown in rates to Duluth on iron and steel articles that are higher from some points than to Chicago, and in rates on the same commodities to the twin cities that do not observe the required differential relationship. During the 1916 season of open navigation the Great Lakes Transit Corporation made a differential on iron and steel, in carloads, to the twin

cities of 4 cents per 100 pounds, and thus partially modified one ground of complaint here; but under the findings in the cases cited the differential should be 8 cents per 100 pounds on less-than-carload shipments and 7 cents per 100 pounds on carloads. The record before us also discloses the failure of the lines involved to adjust the rates on sugar, ammunition, and on other commodities in accordance with the findings announced in the *Duluth Case*, the departures as to these specific articles being illustrative of a general condition in that respect. In *The Twin Cities Case, supra*, we directed that a schedule of commodity rates in conformity with our findings be prepared and presented for our approval. This has not been done.

The principal object of the complainants in instituting the proceeding here before us was to require the defendant carriers in the *Duluth Case* and in *The Twin Cities Case, supra*, to comply with our findings and directions in those two cases. It is said by counsel for the Duluth interests that while the carriers have complied, to some extent at least, with the specific order in the *Duluth Case, supra*, they have not complied with our findings in a substantial way and in accordance with their spirit and meaning. It is also said that the rates that the carriers were permitted to file, upon representations made to the Commission, did not wholly meet the requirements of our findings and have never been accepted by the Duluth interests as complying with the rulings in the previous cases. The differential basis established between Duluth and the twin cities was extended to class traffic, but not to all commodities. As to these matters the complainants demand compliance by the defendant carriers with the Commission's findings.

They also seek relief beyond that granted in the *Duluth Case, supra*. They ask that we prescribe proportional rail rates to the eastern lake ports and proportional water rates for the water haul. They also ask for joint ocean-rail-and-lake rates from the Maine coast, but as to this feature of the complainants' demands no substantial testimony was offered.

The proportional rates suggested by the complainants are measured by the divisions received by the rail carriers on their all-rail rates to Duluth, and they contend that the boat line should publish as proportional rates its divisions on rail-lake-and-rail traffic. The defendants say that their local rates should be the general basis for any proportional rates that should be prescribed, observing the rates from Baltimore as the maximum rates.

In *Ohio Rail and Lake*, 43 I. C. C., 525, 528, we held that from certain points in central freight association territory to Duluth and other points the rates increased to the combination of rail-and-lake rates had been justified. From Scranton, Williamsport, and northern inland groups in Pennsylvania an increase was denied in the rail-
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lake-and-rail rates to Duluth and the twin cities. *Scranton-Williamsport Rail and Lake*, 43 I. C. C., 182. The defendants at the hearing of the complaint now before us expressed their willingness to publish joint through rates based on the combination rail-and-water rates. This basis was held to be just in *Ohio Rail and Lake*, *supra*. The present rail-and-lake and rail-lake-and-rail rates to Duluth and to the twin cities are higher than such rates were when this case was heard.

From all the facts of record we find and conclude—

(1) That the rates assailed have not been shown of record to be or to have been unjust and unreasonable.

(2) That the rail-and-lake class and commodity rates to Duluth from points on and east of the line of the Baltimore & Ohio Railroad from Cleveland south through Akron, Bridgeport, Massillon, Beach City, Uhrichsville, Boston, Bellaire, and Benwood to Wheeling, which are higher than the rail-and-lake rates from the same points to Chicago, are unduly prejudicial of Duluth and unjustly preferential of Chicago.

(3) That the rail-and-lake rates to Duluth on commodities from points east of the Indiana-Illinois state line should be less than the contemporaneously maintained rail-lake-and-rail rates to the twin cities by the differential prescribed in the *Duluth Case*, *supra*, of the class to which the commodity ordinarily belongs, and all commodity rates which fail to maintain such differential are unduly prejudicial of Duluth and unjustly preferential of the twin cities.

(4) That the combination rates from points in central freight association territory have not been shown to be unreasonable, and on this record we are not justified in prescribing as proportional rates lower rates than the present rates used in combination to make the through rates, nor are we authorized of record to require the establishment of joint through ocean-rail-and-lake rates.

Reparation is prayed by Kelly-How-Thomson Company and Marshall-Wells Hardware Company. Each of these complainants, corporations, paid freight and bore the charges under rates here in issue, but no showing of damages was made, and under the ruling in *Penn. R. Co. v. International Coal Mining Co.*, 230 U. S., 184, reparation must be denied.

FOURTH SECTION APPLICATIONS.

With this complaint there were set for hearing portions of certain fourth section applications by which the carriers named as parties thereto ask authority to continue to charge, for the transportation of all freight from points of origin in official classification territory to Minneapolis and St. Paul, and points taking the same rates, by rail-and-lake, lake-rail-and-lake, and lake-and-rail routes through

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Lake Superior or Lake Michigan ports, class and commodity rates which are lower than the rates contemporaneously maintained on like traffic to intermediate points over the same routes and through the same ports. The only rates discussed of record are those from the western termini of the eastern trunk lines and from points east thereof, and what follows has reference only to traffic moving from that part of official classification territory.

It is conceded, and the Commission has so found in several reported cases, that the rates to the twin cities are the direct outgrowth of the lake-and-rail and rail-lake-and-rail routes through Duluth and Superior. From Duluth the distance to the twin cities is approximately 155 miles; from Chicago the short-line distance is 398 miles; and from Milwaukee 336 miles. The lines from Chicago, Milwaukee, and other Lake Michigan and Lake Superior ports therefore participate in the traffic to the twin cities only by meeting the rates made through the head of the lakes. The twin cities rates apply also at Red Wing and Winona, in the state of Minnesota, and Eau Claire, Chippewa Falls, and La Crosse, in the state of Wisconsin, these points being here named as representative of all the points in both states to which the twin cities rates extend.

ROUTES THROUGH DULUTH.

With one exception none of the carriers operating between Duluth and the twin cities rate points made any showing, and we therefore find that the direct lines from Duluth to this territory are not justified in charging higher class rates to the intermediate points than to the more distant points, and relief will be denied. A showing in justification of its higher intermediate rates was made by the Minneapolis, St. Paul & Sault Ste. Marie, or Soo line, which reaches Eau Claire and Chippewa Falls in competition with the Chicago, St. Paul, Minneapolis & Omaha, otherwise known as the Omaha line. The distance from Duluth over the Omaha line is 158 miles to Eau Claire and 148 miles to Chippewa Falls, or an average of 155 miles, which, as before stated, is the approximate short-line distance from Duluth to the twin cities, while the distances over the Soo line to Eau Claire and Chippewa Falls are 225 and 214 miles, respectively, or 42 and 45 per cent more than the short-line distance. The class rates to both points are the same as to the twin cities; to the intermediate points the class rates in many instances are based on the lowest combination. Because of its circuitous route, the Soo line will be permitted to meet the competition of the Omaha line at Eau Claire and Chippewa Falls and to maintain higher rates to the intermediate points; but the relief will be granted upon the condition that the class rates to the intermediate points not more than 155 miles from Duluth shall

not exceed the Eau Claire and Chippewa Falls class rates. As to the intermediate points more than 155 miles from Duluth, the rates should not exceed the rates to the more distant points by more than the following differentials:

Classes.....	1	2	3	4	5	6
Differentials.....	7½	6	4½	4½	3	3

ROUTES THROUGH MILWAUKEE.

The North Western and the St. Paul maintain the twin cities class rates to Eau Claire, La Crosse, Winona, Red Wing, and various other points in Minnesota and Wisconsin, while to the intermediate points higher rates, constructed usually on the Milwaukee or Chicago combination, are applicable. The lake routes to the ports of Duluth and Milwaukee are of substantially the same length and the rail-and-lake class rates to both ports are generally on the same basis. The average distances from Milwaukee to the twin cities over the North Western and the St. Paul are 334 and 337 miles, respectively, while, as heretofore stated, the average distance from Duluth to the twin cities is 155 miles. In view of this substantial disadvantage the lines operating from Milwaukee will be permitted to meet the class rates of the Duluth lines to the twin cities, Eau Claire, and points on and north of the line of the Omaha between the twin cities and Eau Claire, and to maintain higher rates to intermediate points, subject to the conditions that are hereinafter prescribed in connection with the rates over the routes through Chicago. The record shows, however, that the twin cities rates were not extended to La Crosse, Winona, and Red Wing to meet the competition of the routes through Duluth, but were made applicable to these points in order that they might compete as jobbing centers with the twin cities and other points taking the twin cities rates. In *Fourth Section Violations in the Southeast*, 30 I. C. C., 153, we held that competition of this character did not justify the maintenance of lower rates to the more distant points than to the intermediate points. We adhere to that principle in this case and find that the applicants are not warranted in continuing lower class rates to La Crosse, Winona, and Red Wing than to the intermediate points, and relief in respect thereof will therefore be denied.

ROUTES THROUGH CHICAGO.

The short-line distance from Chicago to the twin cities, as before stated, is 398 miles, and the lines operating routes through that port base their claim for fourth section relief on the ground that their class rates to the twin cities are made to meet the competition of the lines operating through Duluth and Milwaukee. The higher rates

to the intermediate points are usually on the basis of the lowest combination. As in the case of the routes through Milwaukee, and on the same principle, authority will be granted to the routes operating through Chicago to continue to the twin cities and points adjacent thereto and grouped therewith, and to Eau Claire, Chipewa Falls, and other points north of the line of the Omaha between Eau Claire and the twin cities, the same rates as are in effect over the routes through Duluth, and at the same time to maintain higher rates to intermediate points. Relief as to these routes as well as to the routes through Milwaukee will be granted, however, only upon the following conditions:

1. That the rates to intermediate points which are not more than 155 miles from Milwaukee or Chicago shall not exceed rates to the twin cities or other more distant points.

2. That the class rates to the said intermediate points shall not exceed rates to the twin cities by more than the following differentials:

Classes.....	1	2	3	4	5	6
Rates.....	15	12	10	7	4	4

3. That the present class rates to said intermediate points shall not be increased except as may hereafter be authorized by some order of this Commission and shall in no instance exceed the lowest combination.

The routes operating through the other Lake Michigan ports will be granted similar relief on the same conditions. It must be understood, however, that with respect to the routes to the twin cities through Chicago that pass through northeastern Iowa and maintain class rates to points in Iowa that are higher than the twin cities class rates, all questions will be reserved for further consideration. As the culmination of a series of cases and of a study of the Iowa rate situation extending over several years a report has just been announced in the *Interior Iowa Cases*, 46 I. C. C., 39, in which class rates to points in Iowa, including points that are intermediate to the twin cities on the Rock Island, the Great Western, the Minneapolis & St. Louis, and the Illinois Central and its connections, have been prescribed. This will involve the continuance of fourth section departures on the lines of some of the carriers whose applications were heard in this proceeding; but until the rates prescribed in the case cited have been put into effect and until experience under them has been gathered, we shall reserve for future consideration the applications for fourth section relief of the carriers herein operating routes by way of Chicago to the twin cities through northeastern Iowa.

All other and further relief prayed in the applications here under consideration in respect of the lake-and-rail and rail-lake-and-rail class rates from the territory above described will be denied.

COMMODITY RATES.

In those instances covered by this report where carriers are authorized to publish and charge lower class rates to more distant than to intermediate points, the publication of rates on commodities to intermediate points to which such commodities do not ordinarily move will not be required if the item containing the commodity rate to the more distant point makes proper reference to a note reading as follows:

The rate named in this item is not applicable to all intermediate points. This departure from the requirements of the fourth section is authorized by I. C. C.'s Fourth Section Order No. ——. Upon reasonable application therefor a rate will be established to any intermediate point, upon one day's notice to the Commission and to the public, which will not exceed the rate to the next more distant point to which a rate is named by more than the class rate on the class to which this commodity belongs exceeds the rate on the same class to the more distant point.

Orders to conform with these findings will be issued.

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No. 9974.
STATE OF IOWA

v.

BALTIMORE & OHIO RAILROAD COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATIONS Nos.
607 ET AL.

Submitted January 5, 1917. Decided July 20, 1917.

1. Upon complaint that rates on asphalt, iron and steel, paper, and analogous articles grouped therewith, from points east of the Illinois-Indiana state line to Des Moines, Ottumwa, Cedar Rapids, Marshalltown, and other interior Iowa cities are unreasonable and unjustly discriminatory; and that proportional rates to Peoria, Ill., on traffic to the northwest, which vary with the point of origin or destination, are unlawful; *Held*, That rates on the articles named in this complaint should be readjusted in accordance with the suggestions made in the *Interior Iowa Cases*, 46 I. C. C., 39; and that the proportional rates complained of are not shown to be unlawful.
2. Portions of certain fourth section applications denied in so far as they seek relief from the rule of the fourth section forbidding any carrier "to charge any greater compensation as a through route than the aggregate of the intermediate rates subject to the provisions of this act."
3. Following *Second Duluth Case*, 46 I. C. C., 585, no disposition made in this report of the applications for relief from the long-and-short-haul rule of the fourth section, which will be reserved for further consideration.

J. H. Henderson and *E. H. Scott* for complainant.

C. O. Dawson for Commercial Club of Ottumwa, Iowa.

E. H. Draper for Western Grocer Company, Marshalltown, Iowa.

H. F. Sundberg for Cedar Rapids, Iowa, Commercial Club.

E. G. Wiley for Greater Des Moines, Iowa, committee and shippers of Des Moines.

W. D. Burdick for Associated Manufacturers Company.

C. B. Combs for Marshall Oil Company.

W. F. Dickinson for Chicago, Rock Island & Pacific Railway Company and other western defendants.

D. P. Connell for central freight association and trunk lines.

REPORT OF THE COMMISSION.

HALL, Chairman:

By complaint of the state of Iowa on behalf of Des Moines, Ottumwa, Cedar Rapids, Marshalltown, and other cities in the

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interior of that state, hereinafter called the interior cities, it is alleged in substance that rates on asphalt, iron and steel, paper, and articles grouped therewith, from points east of the Illinois-Indiana state line to the interior cities are "unjust, unreasonable, excessive, discriminatory, prejudicial, and unlawful," in violation of sections 1, 2, 3, and 4 of the act; that the proportional rates from the points of origin mentioned to Peoria are unlawful, because they vary in amount with the point of origin or destination, and because they, in connection with rates beyond, make relatively lower charges to the farther distant points than to the interior cities; and that some of the through rates exceed the aggregate of the intermediate rates in contravention of section 4 of the act.

Numerous applications for relief from the provisions of the fourth section were set for hearing in connection with this case. At the hearing the Lake Erie & Western Railroad Company and the Vandalia Railroad Company intervened.

The reasonableness of rates on traffic from points east of the Illinois-Indiana state line to points on the Missouri and Mississippi rivers, and to points in the state of Iowa and other points, has had consideration in other cases. *Fort Dodge Commercial Club v. I. C. R. R. Co.*, 16 I. C. C., 572, 583; *Greater Des Moines Committee v. C., R. I. & P. Ry. Co.*, 17 I. C. C., 54; *The Mississippi River Case*, 28 I. C. C., 47; *Interior Iowa Cities Case*, 28 I. C. C., 64; *Cedar Rapids Commercial Club v. C., R. I. & P. Ry. Co.*, 28 I. C. C., 76; *Des Moines Commodity Rates*, 34 I. C. C., 281.

Rates on classes and commodities from all points east of the Illinois-Indiana state line and other points to the interior cities were before us in the *Interior Iowa Cases*, 46 I. C. C., 39.

Many of the contentions here made were advanced in those cases. The exhibits introduced by complainant in this proceeding are either copies of its exhibits in the *Interior Iowa Cases* or in substance the same. The evidence on behalf of defendants is not different in any essential respect from that submitted by them in those cases. On reply brief counsel for complainant, speaking of the *Interior Iowa Cases*, says:

Much as the carriers may desire to forget it, in its essentials this complaint was before the Commission with complaints 3464 and 3465, and when disposed of under rehearing must be the basis for settlement of this case.

It is manifest that the adjustment of rates outlined in those cases must be given controlling effect in disposing of the rates assailed in this proceeding.

In the *Interior Iowa Cases* we said:

In the absence of substantial reasons for a change, the principle herein announced, but not the rates themselves, should remain permanent even though conditions may in the future require either increases or reductions in the

amounts of the rates; that is to say, the Mississippi-Missouri river proportional scale, whatever its level, should in the future be the basis for fixing rates between the territory east of the Indiana-Illinois state line and the interior Iowa cities. It is expected that the carriers will adjust their commodity rates to conform to that basis.

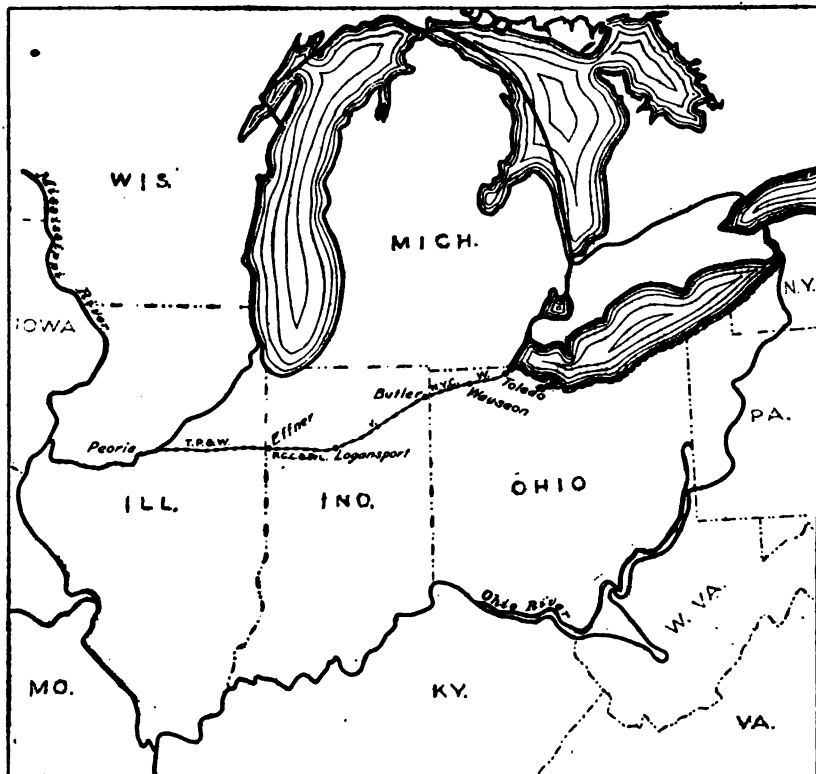
There is nothing in the present record to warrant a departure from the views there expressed. The readjustment suggested will necessarily embrace the commodities affected by the present case.

Two questions presented in this record were not in issue in the *Interior Iowa Cases*. The first is as to proportional rates to Peoria, Ill., on traffic to the northwest, which are lower than proportional rates from the same points of origin to Peoria when the traffic is destined to the interior cities. Complainant contends that proportional rates should not be limited to traffic originating at or destined to particular points, but that, like any other separately established rates, they should be available to all shippers from and to all points; and that proportional rates which vary with points of origin or destination are unlawful.

Defendants show that through rates from points in central freight association territory, hereinafter referred to as C. F. A. territory, to destinations in the northwest are made through Chicago in practically all cases; that the distances from these C. F. A. points are generally less to Chicago than to Peoria; that from and to points in C. F. A. territory rates are made with relation to distance and are therefore lower to Chicago than to Peoria; that nearly every section of C. F. A. territory is served by carriers which have their own rails to Chicago; that some carriers, such as the Lake Erie & Western, Vandalia, and Toledo, Peoria & Western, do not reach Chicago but do reach Peoria; that the lines of the Cleveland, Cincinnati, Chicago & St. Louis extend to Peoria from the east, but this carrier also reaches Chicago over the rails of the Illinois Central from Kankakee, Ill.; that western carriers usually publish the same rates from Chicago and Peoria to points in the northwest; that the combination of rates to and from Peoria would be higher than the combination to and from Chicago; and that in order to enable the lines serving Peoria to participate in traffic to the northwest local rates to Chicago are published as proportional rates to Peoria from and to certain territories.

The carriers serving Peoria do not equalize rates with Chicago from all points in C. F. A. territory or by all routes from trunk line territory. The territories are described in detail in tariffs, but it is sufficient here to state in general terms that the equalization is made from points in C. F. A. territory south of a line running eastwardly from Peoria along the Toledo, Peoria & Western and Pittsburgh, Cincinnati, Chicago & St. Louis through Effner to Logansport, Ind.;

the Vandalia from Logansport to Butler, Ind.; the New York Central from Butler to Wauseon, Ohio; the Wabash from Wauseon to the south bank of Lake Erie at Toledo; and along the south bank of that lake to and including the western termini of the eastern trunk lines. The situation is shown in the accompanying plat.



From points north of the line rates are not equalized through Peoria because of the circuitous routes. From points in trunk line territory the equalization is made when traffic is hauled by carriers operating south of the great lakes, but no attempt is made to equalize on traffic handled by carriers operating north of the lakes.

Carriers serving the Peoria gateway from the east do not equalize rates through that point to all of what is known as northwestern territory. The part of the territory to which rates are not equalized via Peoria is the central and eastern part of Wisconsin and the eastern part of the upper peninsula of Michigan. The region to which rates from C. F. A. territory south of the line are equalized includes the state of Minnesota, except a few stations in the southwestern corner; the state of South Dakota, except a few stations in the southeastern corner; North Dakota, Idaho, Montana, Washing-

ton, and Oregon. So far as rates from trunk line territory are concerned, northwestern territory comprises substantially the same states, except Oregon and Washington.

If the Peoria lines did not equalize rates via that point with Chicago they could not participate in traffic moving to the northwest from points not situated on their own lines; and they would be compelled to turn over to lines reaching Chicago traffic which originates on their own lines, and accept a division of the Chicago rate. By equalizing the rates the Peoria carriers haul the traffic to Peoria and receive the earnings. It does not appear how the shipper in eastern territory or the consignee in northwestern territory, or elsewhere, is injured by the equalization of rates via Peoria. If the proportional rates were canceled and the Peoria gateway closed to traffic to the northwest, shipments would move via Chicago at the same rates and shippers would lose the benefit of competitive routes.

The equalization of rates via the Peoria gateway is not confined to articles named in this complaint, but extends to all traffic. The adjustment has been in effect for many years.

In *Export Rates on Grain and Grain Products*, 31 I. C. C., 616, it was insisted by a representative of shippers that proportional rates on grain from Kansas City, Mo., to Port Arthur, Tex., maintained by the Kansas City Southern Railway Company, were unlawful because they varied in amount, dependent upon the point of origin. In that case at page 619 we said:

A proportional rate is part or remainder of a through rate, and as such must be considered in relation to the whole rate. *Boney & Harper Milling Co. v. A. C. L. R. R. Co.*, 28 I. C. C. 383, 387. In *Bascom Co. v. A., T. & S. F. Ry. Co.*, 17 I. C. C., 354, 356, we said:

"A proportional rate is nothing more or less than a separately established rate, as that phrase is used in section 6 of the amended act applicable to through transportation. * * * The separately established or proportional rate is simply one way of making up the through charges between two points."

Carriers' divisions of joint rates vary widely, dependent upon point of origin or of destination of shipments, although the service of a particular carrier may be identical upon different shipments. * * * The objections of protestants do not go to the reasonableness of the through rates, but to the manner of publication of the proportional rates. Under the facts of record we are not inclined to hold that the proportional rates here considered are unlawful merely because they vary in amount, dependent upon the point of origin. *Scott Mayer Commission Co. v. C., R. I., & P. Ry. Co.*, 28 I. C. C., 529, 532, and cases therein cited; *Malt Rates to New Orleans, La.*, 30 I. C. C., 537.

Upon the record we are of opinion and find that the maintenance of proportional rates to Peoria by the eastern carriers, applicable on traffic to the northwest, which vary with the point of origin or destination, has not been shown to be unreasonable, unduly prejudicial, or otherwise unlawful.

We proceed to a consideration of the other question, that presented by applications for relief from the rules of the fourth section with respect to rates on the articles named in this complaint. No instance was shown where the through charges from points east of the Illinois-Indiana state line on any of the articles mentioned in the complaint were higher than the combinations of intermediate rates subject to the act, and no justification for such an adjustment was offered at the hearing. Therefore, the applications covering this feature will be denied in so far as they apply to the traffic from and to the points named in the complaint. An appropriate order will be entered.

Through rates on asphalt, paper, and articles grouped therewith, from points east of the Illinois-Indiana state line are lower to St. Paul than to certain intermediate points in Iowa on the lines of the Chicago, Rock Island & Pacific, Chicago Great Western, Illinois Central, and Minneapolis & St. Louis. Numerous applications for relief from this situation are presented for consideration.

There are no violations of the long-and-short-haul rule of the fourth section with respect to rates on iron and steel articles to points intermediate to St. Paul.

In the *Second Duluth Case*, 46 I. C. C., 585, we said, at page 593, regarding a somewhat similar situation:

It must be understood, however, that with respect to the routes to the twin cities through Chicago that pass through northeastern Iowa and maintain class rates to points in Iowa that are higher than the twin cities class rates, all questions will be reserved for further consideration. As the culmination of a series of cases and of a study of the Iowa rate situation extending over several years a report has just been announced in the *Interior Iowa Cases*, 46 I. C. C., 39, in which class rates to points in Iowa, including points that are intermediate to the twin cities on the Rock Island, the Great Western, the Minneapolis & St. Louis, and the Illinois Central and its connections, have been prescribed. This will involve the continuance of fourth section departures on lines of some of the carriers whose applications were heard in this proceeding; but until the rates prescribed in the case cited have been put into effect and until experience under them has been gathered, we shall reserve for future consideration the applications for fourth section relief of the carriers herein operating routes through Chicago to the twin cities through northeastern Iowa.

So, here, no disposition will now be made of the applications for relief from the long-and-short-haul rule of the fourth section, and they will be reserved for further consideration.

The complaint will be dismissed.

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CENTRAL FREIGHT ASSOCIATION TERRITORY MILK AND CREAM RATES.

No. 8558.¹

MILK AND CREAM INVESTIGATION.

Submitted October 27, 1916. Decided July 19, 1917.

Rates for the interstate transportation of milk, skim milk, buttermilk, cream, condensed milk, evaporated milk; and certain other commodities in milk cans between points in central freight association territory and from certain points south of the Ohio River to Cincinnati, Ohio, found to be unreasonable. Reasonable rates prescribed as maxima for the future.

L. D. Crumacker for Walter A. Hall and others.

G. A. Page for Borden's Condensed Milk Company.

Urban A. Lavery for Beaumont Dairy Company.

M. S. Hartman for Fairmont Creamery Company; Ohio Milk Distributors Association; and Ohio Association of Creamery Owners & Managers.

H. W. Swanson for Fox River Butter Company.

Martin H. Meyer for National Creamery Buttermakers Association.

W. P. Jones for United Dairy Company and Illinois Butter Manufacturers Improvement Association.

M. T. Jones for Golden & Company.

G. M. Freer for Cincinnati, Ohio, Chamber of Commerce.

Oscar Erf for Ohio State Grange.

T. J. Norton and *F. E. Andrews* for Atchison, Topeka & Santa Fe Railway Company.

Edward Barton and *William A. Eggers* for Baltimore & Ohio Railroad Company and Baltimore & Ohio Southwestern Railroad Company.

George J. Charlton and *Harry Reuben* for Chicago & Alton Railroad Company.

O. C. Wright for Chicago & North Western Railway Company.

A. L. Craig for Chicago Great Western Railroad Company.

O. W. Dynes for Chicago, Milwaukee & St. Paul Railway Company.

Wallace T. Hughes for Chicago, Rock Island & Pacific Railway Company.

¹ This report also embraces No. 7484, Fairmont Creamery Company v. New York, Chicago, & St. Louis Railroad Company; No. 7826, John H. Murchland et al. v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company; No. 7826 (Sub-No. 1), Thomas Pettibone et al. v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company; No. 7878, Walter A. Hall et al. v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company; and No. 8084, Ohio Association of Creamery Owners & Managers v. Baltimore & Ohio Railroad Company et al.

T. H. Burgess for Erie Railroad Company and Chicago & Erie Railroad Company.

William W. Collin, jr., for Pennsylvania lines.

G. W. Kretzinger for Grand Trunk Western Railroad Company.

A. P. Humburg for Illinois Central Railroad Company.

D. P. Connell for New York Central lines.

A. H. Lossow for Minneapolis, St. Paul & Sault Ste. Marie Railway Company.

B. B. Scott for Chicago, Burlington & Quincy Railroad Company.

C. P. Stewart for Cleveland, Cincinnati, Chicago & St. Louis Railway Company and Cincinnati Northern Railway Company.

W. S. Bronson for Chesapeake & Ohio Railway Company and Chesapeake & Ohio Railway Company of Indiana.

W. P. Hines for Louisville & Nashville Railroad Company.

E. N. Aiken for Cincinnati, New Orleans & Texas Pacific Railway Company.

M. R. Waite for Cincinnati, Hamilton & Dayton Railway Company and its receivers.

E. W. Bennett for Northern Express Company.

H. B. Calkins and *Branch P. Kerfoot* for Wells Fargo & Company.

W. H. Burr for Western Express Company.

W. W. Owens for Southern Express Company.

REPORT OF THE COMMISSION.

McCHORD, Commissioner:

On November 1, 1914, and on various dates subsequent thereto, certain carriers in central freight association territory rearranged their rates with respect to interstate shipments of milk and cream. Higher rates were established on cream than on milk, although both had been transported at the same rates prior thereto, and some increases were made in the rates on milk. These changes led to the filing of complaints with the Commission as to the rates on milk from certain points in Indiana to Chicago and from points in Ohio to Buffalo and Pittsburgh, and as to the rates on cream from various interstate points to Columbus and other points in Ohio. These complaints were consolidated with the general investigation of rates, rules, regulations, and practices of carriers with respect to interstate shipments of milk and cream instituted by the Commission on January 11, 1916.

In that part of the country lying west of the Mississippi River and south of the Ohio River the rates and regulations of carriers engaged in transporting milk and cream are generally satisfactory to shippers and receivers, having been in effect substantially without change for many years. A complaint attacking the rates on milk from various points in Mississippi on the Illinois Central Railroad to New Orleans,

La., was disposed of in *South Mississippi Dairymens Asso. v. I. C. R. R. Co.*, 44 I. C. C., 297.

It was stated by shippers and receivers of milk and cream that they had no complaint to make with respect to rates on shipments to points west of Chicago, and that rates to Chicago from points west and north thereof are satisfactory. With the exception of the rates to New Orleans above referred to, and express rates on cream to Washington, D. C., Columbus and other Ohio cities, no complaint has been made, so far as this record shows, as to the rates and practices of carriers south of the Ohio and Potomac rivers. Where rates and regulations now maintained are generally satisfactory an investigation has not been undertaken.

Therefore, in this report we will consider the rates, regulations, and practices of respondents with respect to interstate transportation of milk and cream between points in central freight association territory; to Cincinnati from points south thereof; and to Buffalo and Pittsburgh from certain points. For the purposes of this report all points will be considered in that territory.

Rates of respondents on milk and cream applicable between all points, except as to certain points hereinafter considered, are adjusted in conformity with distance scales having general territorial application, and including in all cases the return of the empty containers. The circumstances and conditions of transportation are substantially similar throughout this territory. Milk trains are not operated by respondents, and it appears that milk is not transported in freight cars in freight trains. So-called milk trains, made up of baggage, express, and passenger cars, are operated by the Pennsylvania, one to Chicago and one to Pittsburgh, and one such train is operated by the Erie to Cleveland. Shipments are transported in milk cans in baggage cars in passenger trains. The amount of milk and cream transported in interstate commerce in the territory here considered is comparatively small except to Pittsburgh and Cincinnati, considerable quantities being shipped from points in Ohio to the former and from points in Indiana and Kentucky to the latter. Sweet and sour cream move for greater distances than milk, and the volume of movement in interstate commerce is greater.

The following table shows the milk and cream revenue received during the year ended June 30, 1915, by respondents which had a total operating revenue in excess of \$5,000,000, classified as to carriers operating mainly in trunk line territory, central freight association territory, and western trunk line territory.

Roads operating mainly in trunk line territory.		Roads operating mainly in C. F. A. territory.		Roads operating mainly in western trunk line territory.	
Road.	Revenue.	Road.	Revenue.	Road.	Revenue.
Pa. R. R.	\$308,048	N. Y. C. (west).....	\$67,384	A. T. & S. F.	\$20,451
N. Y. C. (east).....	2,295,202	C. I. & S.	2,584	C. M. & St. P.	850,080
Erie.....	980,561	B. & O.....	364,398	C. B. & Q.....	308,182
P. & R.....	318,423	Pa. Co.....	177,007	C. & N. W.....	1,176,578
D. L. & W.....	1,063,020	P. C. C. & St. L....	106,508	M. St. P. & S. Ste. M.	140,387
Lehigh Valley.....	720,354	C. C. C. & St. L....	78,831	C. St. P. M. & O....	22,523
C. R. R. of N. J.....	59,591	Michigan Central.....	51,196	C. & A.....	45,380
D. & H.....	285,360	Wabash.....	63,136	C. G. W.....	172,627
P. B. & W.....	152,116	Pere Marquette.....	123,348		
Long Island.....	107,013	P. & L. E.....	100,070		
B. E. & P.....	21,353	N. Y. C. & St. L....	4,652		
N. Y. O. & W.....	853,405	Vandalia.....	61,393		
Western Maryland.....	78,289	C. H. & D.....	15,078		
W. J. & S. S.....	100,633	B. & L. E.....	10,907		
		G. T. W.....	29,738		
		C. I. & L.....	20,565		
		Hooking Valley.....	11,188		
		C. & E.....	44,097		
		L. E. & W.....	20,311		
		W. & L. E.....	46,680		
		G. R. & I.....	17,791		
Total.....	7,799,768	Total.....	1,417,847	Total.....	2,813,758
Average revenue.....	556,493	Average revenue.....	67,493	Average revenue.....	351,720

It will be noted that the revenue in trunk line territory is about five and one-half times the revenue in central freight association territory, and that the revenue in western trunk line territory is nearly twice as much as that in central freight association territory. The gross revenue of the Baltimore & Ohio is credited to central freight association territory, although it derives considerable revenue from shipments in trunk line territory.

Milk and cream are transported between the points involved herein by a large number of electric lines, and there is an exceptionally large movement to consuming points by trucks and wagons, which render the transportation by rail relatively small as compared with that in trunk line territory. About 30 per cent of the milk consumed in Cincinnati and about 33½ per cent of that consumed in Cleveland is transported to those points by trucks and wagons.

The number of concentration plants for butter making in central freight association territory has greatly increased in the last 10 years, extensive plants having been erected at Buffalo, Columbus, Cleveland, and Cincinnati. Since 1906 there has been a marked decrease in the number of small creameries operated by farmers on the cooperative plan or by independent companies or individuals. During the past five years the movement of cream for butter making has shown a greater increase than the movement of milk. Prior to 1910 sour cream was not shipped to Cincinnati, while at the present time 1,000,000 quarts are consumed there annually. Shipments of cream to Columbus, Cleveland, and other points have greatly increased.

Shipments of milk and cream throughout the territory are generally forwarded without refrigeration. Refrigeration is provided with

respect to shipments to Pittsburgh at a rate approximately 20 per cent higher. Occasionally shipments of milk in bottles, in cases or crates, are iced by shippers at their expense. The movement of milk and cream in bottles is very small, and no evidence was submitted with respect to rates or practices respecting shipments in these containers. There has been no demand by shippers for carload rates. The Baltimore & Ohio is the only carrier which maintains carload rates.

Shipments to all points are generally made by farmers who pay the transportation charges and sell the product at delivered prices. As a general rule, sweet milk and cream are forwarded on local passenger trains and reach destinations early in the morning. The length of haul of shipments of sour cream is greater, and shipments are frequently hauled in through passenger trains. To Cincinnati there are 22 passenger trains daily in which milk or cream are transported in baggage cars, and 7 are through trains on which sour cream is shipped. Sour cream is tendered for shipment more irregularly than sweet cream and milk. It is delivered to the carriers at any time of day and in uncertain quantities, as it is not of a perishable nature and can be delayed in shipment for considerable periods. Sour cream is sometimes shipped more than 300 miles. It is impracticable to segregate sour cream from sweet cream and to fix rates for the former on a lower basis than the latter.

Throughout central freight association territory generally shipments of milk and cream are delivered at passenger stations. However, in some instances the cars are switched to milk platforms. One, and frequently two, milk platforms are maintained by respondents at shipping points. In some cases, on account of the heavy movement, an extra man is added to the train crew to assist the train baggagemen, and it is sometimes necessary to add two men.

Milk and cream are seldom shipped by express between points in central freight association territory. The Southern Express Company handles milk and cream shipments over the Norfolk & Western. Very few shipments are handled by this company.

The rates on shipments of milk and cream between points in central freight association territory are not on a uniform basis. Many of the respondents did not change their rates in 1914 or subsequent to that time. Rates will be stated in cents per can, case, or crate.

The following table shows the present rates of the Baltimore & Ohio Southwestern on milk and cream, applicable to state and interstate shipments over its line, except between stations in Illinois or as I. C. C.

Indiana and St. Louis, Mo., and between stations in Illinois and Indiana:

Distances (in miles).	5-gallon can.	8-gallon can.	10-gallon can.
25 and under.....	8	12	15
25 to 75.....	10	16	20
75 to 115.....	12	20	25
115 to 151.....	15	24	30
151 to 200.....	20	32	40
200 to 250.....	25	40	50
250 to 300.....	30	48	60
300 to 350.....	35	56	70

The following rates are now in effect between the points above referred to as to which the above scale is not applicable:

Distances (in miles).	Milk. ¹			Cream. ²		
	5-gallon.	8-gallon.	10-gallon.	5-gallon.	8-gallon.	10-gallon.
1 to 25, inclusive.....	12	15	17	14	18	20
25 to 30, inclusive.....	13	16	18	15	19	21
31 to 35, inclusive.....	13	17	19	15	20	22
36 to 40, inclusive.....	14	18	20	16	21	23
41 to 45, inclusive.....	15	19	21	17	22	24
46 to 50, inclusive.....	15	20	22	17	22	25
51 to 60, inclusive.....	16	21	23	18	23	26
61 to 70, inclusive.....	17	22	24	19	24	27
71 to 80, inclusive.....	18	23	25	20	25	28
81 to 90, inclusive.....	18	24	26	20	26	29
91 to 100, inclusive.....	19	24	27	21	27	30
101 to 115, inclusive.....	20	25	28	22	28	31
116 to 130, inclusive.....	20	26	29	22	29	32
131 to 145, inclusive.....	21	27	30	23	30	33
146 to 160, inclusive.....	22	28	31	24	31	34
161 to 175, inclusive.....	22	29	32	24	31	35
176 to 190, inclusive.....	23	30	33	25	32	36
191 to 205, inclusive.....	24	31	34	26	33	37
206 to 220, inclusive.....	25	32	35	27	34	38
221 to 235, inclusive.....	25	33	36	27	35	39
236 to 250, inclusive.....	26	33	37	28	36	40

¹ Also pot cheese, buttermilk, and skimmed milk.

² Also concentrated and condensed milk.

Since November 1, 1914, the Baltimore & Ohio has maintained rates on milk based on the scale prescribed by the Commission on shipments of cream in *Beatrice Creamery Co. v. I. C. R. R. Co.*, 15 I. C. C., 109, 133, hereinafter called the *Beatrice Case*. The scale begins at 20 cents per 40-quart can for distances of 25 miles or less, and increases 1 cent per can for each 5 miles for distances over 25 miles up to and including 50 miles, 1 cent per can for each 10 miles for distances over 50 miles up to and including 100 miles, and 1 cent per can for each 15 miles for distances over 100 miles up to and including 505 miles. The rates on milk in 8 and 5 gallon cans are nine-tenths and seven-tenths, respectively, of the rates on 10-gallon cans, which relationships were prescribed in the *Beatrice Case*. Rates on cream are about 25 per cent higher than those on milk.

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The Cincinnati, Hamilton & Dayton has in effect the following scale of rates for the distances shown:

	5-gallon can.	7-gallon can.	8-gallon can.	10-gallon can.
For distances 1 to 25 miles:				
Milk or cream.....	7	10	12	14
Cream packed in ice.....	21	30	36	42
For distances 26 to 50 miles:				
Milk or cream.....	10	14	16	20
Cream packed in ice.....	30	42	48	60
For distances 50 miles or over:				
Milk or cream.....	12	16	18	22
Cream packed in ice.....	36	48	54	66

The present rates of the Chesapeake & Ohio and the Chesapeake & Ohio of Indiana on shipments of milk and cream between stations on their lines are as follows:

Distances (in miles).	5-gallon can.	8-gallon can.	10-gallon can.
1 to 20.....	10	13	15
21 to 35.....	12	16	18
36 to 50.....	15	18	22
51 to 75.....	15	20	26
77 to 115.....	17	22	27
116 to 150.....	20	25	30
151 to 200.....	20	28	33
201 to 250 ¹	22	31	36
251 to 300 ¹	23	31	38
301 to 400 ¹	25	35	41
401 to 500 ¹	30	40	50

¹ Chesapeake & Ohio of Indiana.

² Chesapeake & Ohio.

The Cincinnati, New Orleans & Texas Pacific has in effect a distance scale which has been maintained for many years. The rate on a 10-gallon can of milk is 15 cents for distances of 60 miles or less, with an increase of 3 cents per can for each 10 miles over 60 miles up to and including 100 miles; and 3 cents for each 15 miles over 100 miles up to and including 205 miles. The rates for 5-gallon cans of milk are 5 cents less than those for 10-gallon cans, and the rates for 8-gallon cans are 2 or 3 cents under the 10-gallon rates. Rates on cream are 2, 4, and 5 cents per can higher than the rates on milk in 5, 8, and 10 gallon cans, respectively.

46 I. O. O.

The present rates of the Louisville & Nashville on interstate shipments of milk and cream between points in Indiana and Illinois and from points in those states to St. Louis, Mo., are as follows:

Distances (in miles).	Milk.			Cream.		
	5-gallon can.	8-gallon can.	10-gallon can.	5-gallon can.	8-gallon can.	10-gallon can.
1 to 20.....	12	15	17	14	18	20
21 to 25.....	12	15	17	14	18	20
26 to 30.....	13	16	18	15	19	21
31 to 35.....	13	17	19	15	20	22
36 to 40.....	14	18	20	16	21	23
41 to 45.....	15	19	21	17	22	24
46 to 50.....	15	20	22	17	22	25
51 to 60.....	16	21	23	18	23	26
61 to 70.....	17	22	24	19	24	27
71 to 80.....	18	23	25	20	25	28
81 to 90.....	18	23	26	20	26	29
91 to 100.....	19	24	27	21	27	30
101 to 115.....	20	25	28	22	28	31
116 to 130.....	20	26	29	22	29	32
131 to 145.....	21	27	30	23	30	33
146 to 160.....	22	28	31	24	31	34
161 to 175.....	22	29	32	24	31	35

The above rates apply to cans "without jacket." The rates on shipments in cans with jackets are 2 cents per can higher.

The New York Central lines west of Buffalo now maintain the following scale of rates on milk, in cents per can:

Distances (in miles).	5-gallon can.	8-gallon can.	10-gallon can.
1 to 25.....	8	12	15
26 to 45.....	10	16	20
46 to 60.....	12	20	25
61 to 70.....	21		
71 to 80.....	22		
81 to 90.....	23		
91 to 100.....	24		
101 to 115.....	25		
	For each 15 miles beyond 115 miles up to and including 505 miles the rates are increased 1 cent per can.	For distances of more than 61 miles the rates on 8 and 10 gallon cans are as follows: 61 to 100... 30 101 to 150... 35 151 to 200... 37½ 201 to 250... 40 251 to 350... 45	

The rates on cream in 5-gallon cans are 50 per cent greater than those on milk for distances of 60 miles or less; are the same for distances over 60 miles to and including 265 miles; and are 1 cent higher for distances over 265 miles up to and including 505 miles. The rates on cream in 8-gallon cans are the same as those on milk or from 1 to 8 cents per can higher; and in 10-gallon cans the rates are from 8 to 14 cents per can higher than those on milk.

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The Grand Trunk system maintains a scale of rates on milk as follows:

Distances (in miles).	8-gallon cans and less.	Over 8 gallons but not more than 10 gallons.
1 to 17.....	12	15
19 to 55.....	15	20
56 to 75.....	20	25
76 to 100.....	25	30
101 to 150.....	30	35
151 to 200.....	35	40
201 to 250.....	40	45
251 to 300.....	45	50
301 to 350.....	50	55

The rates and grouping on cream are based on those prescribed in the *Beatrice Case*.

On November 15, 1914, the New York, Chicago & St. Louis established rates on milk in accordance with the scale prescribed in the *Beatrice Case* and rates on cream were made 25 per cent higher.

Between all stations, except as hereinafter noted, on the Erie and Chicago & Erie, milk and cream are transported under the following scale of charges, in cents per can:

Distances (miles).	5-gallon can.		8-gallon can.		10-gallon can.	
	Milk.	Cream.	Milk.	Cream.	Milk.	Cream.
25 and less.....	10	13	12	15	15	19
55 and over 25.....	15	19	20	25	25	31
100 and over 55.....	17	21	25	30	30	38
150 and over 100.....	20	25	28	35	35	44
200 and over 150.....	23	29	32	40	40	50
250 and over 200.....	25	31	35	45	45	55
300 and over 250.....	27	34	40	50	50	63
400 and over 300.....	30	38	44	55	55	69
500 and over 400.....	33	41	48	60	60	75

Rates on milk and cream were the same prior to January 1, 1915, on which date interstate rates on cream were established on the basis shown above. The rates on intrastate shipments between points in Ohio are the same on both milk and cream, and are as above shown on milk. The schedule which carries the above rates also carries rates on milk and cream to Pittsburgh, Pa., from 15 stations in Ohio and Pennsylvania for distances up to 155 miles. The rate on milk in cans containing 10 gallons or less for all distances is generally 30 cents; from a few points the rate is 35 cents. The rates on cream from these points range from 38 to 44 cents.

It is insisted by representatives of respondents that rates on milk and cream should be on a uniform basis with respect to both state and interstate traffic throughout central freight association territory. Although milk and cream are transported between all points in this territory under substantially similar circumstances and conditions, the

rates, rules, and regulations applicable thereto are radically different. Charges differ in marked degree between carriers serving the same territory. Charges and groupings maintained by different carriers reaching the same destination are so much at variance that a comparison is almost impossible. Representatives of respondents did not attempt to defend many of the schedules, and it was freely admitted that they should be revised. For example, the general passenger agent of the Baltimore & Ohio Southwestern and Cincinnati, Hamilton & Dayton testified that the existing interstate schedules were formulated when shipments were entirely confined to milk; that several attempts to raise the interstate rates had failed; that the Indiana commission failed to approve a tariff increasing intrastate rates because the different carriers were unable to agree as to uniformity of rates and regulations; and that the negotiations with respect to uniformity are awaiting the outcome of this proceeding. The passenger traffic manager of the Baltimore & Ohio testified that an interstate tariff which was felt to be consistent as to grouping and reasonable as to charges, was filed only because this was deemed to be a proper step in the way of establishing a proper adjustment on both intrastate and interstate commerce. Soon after the increased interstate rates were filed it was ascertained that they would be attacked by formal complaint, and it was thought wise to await the outcome thereof before filing similar schedules covering intrastate traffic. The Baltimore & Ohio and Pennsylvania contend that the rates established by them on November 1, 1914, are reasonable and should be adopted throughout this territory. The interstate rates of these carriers on milk are based on the scale prescribed in the *Beatrice Case* on cream, and rates on cream are 25 per cent higher.

The inspector of passenger service of the Pennsylvania lines testified that he had devoted a considerable amount of time to the preparation of cost and revenue statistics with respect to passenger service. He stated that the cost of transportation of commodities generally carried in baggage cars is not easily separable, due very largely to the unoccupied space and the apportionment of such space. In arriving at the cost of service for the transportation of such commodities as milk and cream it is customary to select trains in which the commodities are carried in carloads. It was his opinion that shipments in carloads will largely represent the revenue and cost for less than carloads. On a large part of the trains of the Pennsylvania Company and the other respondents cream is carried in baggage cars with one or more different commodities. For the purpose of getting at the cost of the service the witness selected trains on the Pennsylvania lines that were not typical, but those that would give a result which he thought would favor the shipper and be above criticism. Four trains of the Pennsylvania lines on which the bulk of the milk

and cream traffic is hauled were selected for his study. These trains are operated between Ashtabula, Ohio, and Pittsburgh, Pa., and between Plymouth, Ind., and Chicago. The period covered was the eight months ended March 31, 1915. The trains were selected because of the density of the milk traffic transported on them, and because 90 per cent of the shipments carried, by actual test, were made in 10-gallon cans, so that the revenue is the maximum that might reasonably be expected from this class of traffic. The revenue with respect to which the calculations were made is the actual revenue received from the business, taken from the auditor's books. The item of expense is taken from the annual report of the Pennsylvania Company filed for the year 1914, and includes all expenses. The unit shown in the annual report is the expense per passenger-train mile. That figure is multiplied by the train-miles for the period. The total expense is divided between the four classes of service of the train on the basis of the car mileage made in each. Then the expense was reduced by the witness to train-mile and car-mile bases, and a deduction made showing the profit and loss on each unit. In connection with his evidence he filed two exhibits. One had reference to the Ashtabula-Pittsburgh trains, and is as follows:

Ashtabula-Pittsburgh train No. 242 hauls two cars of milk from Austinburg to Allegheny and one car of milk from Rock Creek to Allegheny daily. Balance of equipment in this train consists of one express car Youngstown to Pittsburgh, and one express car, one combination baggage-mail car, and two coaches Ashtabula to Pittsburgh, the express cars not being operated on Sundays. The return service for this equipment is in Pittsburgh-Ashtabula train No. 217, except that a sleeping car from Pittsburgh to Niles is substituted for the Youngstown express car and operated daily.

The revenue derived from transportation of milk on those trains during the eight-month period commencing with August of last year—the first complete month for which refrigerator service was furnished—amounted to \$29,573.80, or 17.7 cents per milk-car mile; and the revenue derived from transportation of passengers on those trains during same period amounted to \$42,875.75, or 25.1 cents per passenger-car mile (charging passenger service with one-half of the combination baggage-mail car). Our accounting system does not contemplate that express revenue shall be calculated and reported for individual trains; however, the revenue derived by P., Y. & A. Ry. from transportation of express during year 1914 amounted to \$38,492.22, and the car mileage made in express service on that road during same period amounted to 187,373, so that the revenue per car-mile was 20.5 cents, which it is believed fairly represents the express revenues from the trains in question. As in the case of express revenue, mail revenue is not calculated and reported for individual trains; and in view of the purpose and the small amount involved, the cost figures have been shown on accompanying exhibit as representing this revenue.

The annual report for year 1914 shows the average cost of operation for passenger trains over P., F. W. & C. Ry. to be 129.0 cents per train-mile, and the average cost over P., Y. & A. Ry. to be 159.2 cents per train-mile; and, based on those figures, the average cost of operation for Pittsburgh-Ashtabula trains is 150.8 cents per train-mile. Those figures contain all items of expense incident to operation of passenger trains, and are arrived at by allocating the total expenses for the year to freight and passenger services, respectively, on the basis of fact where determinable, and, generally speaking, on the basis of the revenue train mileage made in each service where the expense

is common to both services. Briefly stated, the expenses common to both services are: Maintenance of way and structures; general; and tax accruals, and for Pennsylvania Company, these items respectively represented 17.42, 3.56, and 7.16 per cent of total during year 1914.

The attached exhibit shows revenues and expenses incident to operation of trains Nos. 242 and 217, determined as above outlined:

	No. 242.	No. 217.	Total.
Train-miles.....	30,583.7	30,583.7	61,167.4
Passenger-car miles.....	76,484	94,635	171,119
Milk-car miles.....	83,349	83,349	166,698
Express-car miles.....	39,730	36,187	75,917
Mall-car miles.....	15,297	15,297	30,594
Total car-miles.....	214,920	219,518	434,438
Passenger revenue.....	\$16,674.32	\$36,301.43	\$52,975.75
Milk revenue.....	29,573.30	.....	29,573.30
Express revenue.....	5,172.95	5,378.85	10,551.80
Mall revenue.....	3,394.78	3,215.98	6,610.76
Total revenue.....	57,706.85	34,796.26	92,503.11
Passenger revenue per car-mile.....	Cents. 21.8	Cents. 27.8	25.1
Milk revenue per car-mile.....	35.5	.....	17.7
Express revenue per car-mile.....	20.5	20.5	20.5
Mall revenue per car-mile.....	21.5	21.0	21.3
Total revenue per car-mile.....	26.9	15.9	21.3
Passenger revenue per train-mile.....	54.5	85.6	70.1
Milk revenue per train-mile.....	96.7	.....	48.3
Express revenue per train-mile.....	26.7	17.6	22.2
Mall revenue per train-mile.....	10.8	10.5	10.6
Total revenue per train-mile.....	188.7	113.7	161.3
Passenger expense.....	\$16,423.71	\$19,806.30	\$36,230.01
Milk expense.....	17,897.85	17,523.97	35,421.82
Express expense.....	5,544.26	5,806.45	11,350.71
Mall expense.....	3,394.78	3,215.98	6,610.76
Total expense.....	46,180.60	46,180.60	92,361.20
Passenger expense per car-mile.....	Cents. 21.8	Cents. 21	21.3
Milk expense per car-mile.....	21.5	21	21.3
Express expense per car-mile.....	21.5	21	21.3
Mall expense per car-mile.....	21.5	21	21.3
Total expense per car-mile.....	21.5	21	21.3
Passenger expense per train-mile.....	53.7	65.1	59.4
Milk expense per train-mile.....	58.5	57.3	57.9
Express expense per train-mile.....	27.9	18.0	23.0
Mall expense per train-mile.....	10.8	10.5	10.6
Total expense per train-mile.....	150.9	150.9	150.9
Passenger profit and loss.....	\$250.61	\$4,395.23	\$4,545.84
Milk profit and loss.....	11,676.95	17,523.97	29,200.92
Express profit and loss.....	1371.31	126.60	1497.91
Mall profit and loss.....	.....	.....	.....
Total profit and loss.....	11,555.25	14,354.34	25,909.59
Passenger profit and loss per car-mile.....	Cents. 0.3	Cents. 6.8	3.8
Milk profit and loss per car-mile.....	14	21	13.6
Express profit and loss per car-mile.....	1	1.5	1.3
Mall profit and loss per car-mile.....	.....	.....	.....
Total profit and loss per car-mile.....	5.4	15.1	10.7
Passenger profit and loss per train-mile.....	8	20.5	10.7
Milk profit and loss per train-mile.....	28.2	57.3	26.6
Express profit and loss per train-mile.....	11.3	1.4	1.8
Mall profit and loss per train-mile.....	.....	.....	.....
Total profit and loss per train-mile.....	37.6	37.2	37.4

¹ Loss.

The witness stated that the figures were submitted to show that the increased rates of the Pennsylvania Company on milk and cream are scarcely remunerative, and that as compared to the other classes of passenger-train traffic they do not meet their proper proportion of the operating expenses. It is to be noted that the figures are based on three months of operation under the rates before they were increased and five months after they were increased.

With respect to these exhibits counsel for shippers contend that they do not indicate anything of value in determining reasonable rates on milk and cream in central freight association territory. It is shown that two of the cars in the Ashtabula-Pittsburgh train move from a point 117 miles from Pittsburgh and one from a point 109 miles distant. The average distance the cars move one way is about 113 miles. At the old rate, figured on the basis of the train-mile revenue for that distance, an average load of 371 cans was hauled per trip, or a few cans less than are required to fill the floor space of a 60-foot baggage car. With respect to the Plymouth-Chicago train the one-way distance is 83 miles. The train-mile revenue indicates that the average train-mile movement was 169 10-gallon cans, or one-half the number which may be loaded on the floor of an ordinary baggage car. It is further shown that the expense of handling three cars is charged to the revenue from traffic that could be transported on the floor of a single baggage car, and that the expense of handling two cars on the Plymouth-Chicago trains is charged to the revenue from traffic that could be transported on the floor of a baggage car half of which could be occupied by other commodities.

It is further contended that the exhibits are misleading, because they cover a period of the year when the movement of milk is light, and that the volume of movement is greater during April, May, June, and July.

It is by no means established that an apportionment of expenses between passenger and freight service, to cover expenses common to both, on a train-mile basis is just to passenger service. It is often contended that such an apportionment unduly burdens passenger service. *Milk and Cream Rates to Philadelphia, Pa.*, 45 I. C. C., 371.

The passenger-train mileage of Pennsylvania lines west is nearly equal to the freight-train mileage; the passenger revenue is about 27 per cent of the freight revenue; and the car mileage in passenger service is about 15 per cent of the freight-car mileage.

It seems clear that it is not just to apportion to milk and cream service double expense because of the return movement. It costs more to haul a car loaded with milk and cream than one loaded with returned empty cans.

The Baltimore & Ohio has four passenger trains operating into Chicago which carry milk and cream in baggage cars. Train No. 17 which originates at Garrett, Ind., carries most of such shipments. Milk and cream shipments were reduced to a weight basis by a representative of the Baltimore & Ohio and compared with the same rates on a freight and express basis. The freight and express charges used were based on rates on butter, butterine, and similar articles. It is shown by these comparisons that the increased rates on milk and cream produce less earnings than are realized from freight and express rates. The average expense per passenger-train mile on the Baltimore & Ohio system is 87.7 cents; the revenue derived from shipments of milk and cream on train No. 17 was 42.2 cents, and the passenger revenue on the same train was 12.6 cents. The difference between the average expense per train-mile and the total revenue from milk and cream and passengers was 32.9 cents.

It is further shown that the average expense per passenger-train mile on the Newark, Ohio; Wheeling, W. Va.; Cleveland, Ohio; New Castle, Pa.; and Pittsburgh and Chicago divisions exceeds the average train-mile expenses of the system as a whole, and that it is only occasionally that the passenger-train mile yield on all traffic, including milk and cream, is equal to the train-mile expenses on the different divisions.

It is insisted by the respondents that milk and cream traffic is not an incident to passenger transportation, but requires a high class of service for the sole benefit of that business. On most trains handling shipments of milk and cream an extra baggage car is attached in charge of a baggageman and helper. The schedules of the trains must be accommodated to the station stops made necessary by the milk and cream traffic. Many of the milk-shipping points are small stations without agents, from and to which passenger transportation is of little consequence. Most, if not all of the passenger trains now carrying milk and cream would be operated even though these commodities were not shipped, and many of them with the same car equipment. The traffic is desirable, and is eagerly solicited by respondents. It moves constantly, and the business may be conducted with economies not possible with traffic which moves irregularly. The tariffs of most respondents provide that shippers shall assist in loading cars, or shall deliver their shipments to car doors. The traffic moves generally in passenger trains that are the least remunerative of those operated by respondents.

It is impossible on this record to determine the car-mile, ton-mile, and gross ton-mile earnings received by any of the respondents from

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their milk and cream traffic as a whole. There is no showing from which the average loading of cars, the quantity of other commodities transported in the cars, or the average length of the hauls, may be determined.

There has been a slight increase in the volume of milk shipments between points in central freight association territory in recent years, and shipments of sour cream to centralizers have greatly increased in the last five years, but there is no showing that the quantity of milk and cream to be transported by respondents in the immediate future will require radical changes in the method of transportation. The average length of haul in central freight association territory is well under 50 miles. Carload business is negligible. The average consignment is small, not more than 10 cans per shipment. The business is conducted as a pick-up service on local passenger trains. In no case are cars consolidated en route and transported to destination as a milk train.

On this record the Pennsylvania lines, the Baltimore & Ohio, the New York, Chicago & St. Louis and other respondents which increased their rates in November, 1914, or subsequently thereto, have not justified such rates. It is clear that a mere requirement that these respondents cancel the increased rates would in no way improve the rate situation as it exists to-day. Under the general investigation we have authority to establish just and reasonable rates and groupings throughout the territory involved.

Rates on milk and cream have been frequently considered by this Commission and by state commissions in recent years. Some indication of what would be reasonable rates in the territory may be found in comparisons of scales prescribed in different sections of the country, and particularly those in this general territory.

As before stated the interstate rates of the Pennsylvania and the Baltimore & Ohio on milk are the same as prescribed on cream in the *Beatrice Case*, and the rates on cream are 25 per cent higher.

The following table gives the scale prescribed on cream in the *Beatrice Case*; that prescribed on milk by the Commission in the *Dixie Dairymen's Asso. v. Y. & M. V. R. R. Co.*, 27 I. C. C., 618, 620; and that prescribed by the Public Utilities Commission of the State of Illinois on milk and cream in *Newton Creamery Co. v. T., St. L. & W.*, decided in December, 1914, and now in effect in schedules of the Baltimore & Ohio Southwestern and other respondents, applicable to shipments of milk and cream between points in Illinois

and Indiana and from points in Illinois and Indiana to St. Louis, Mo., in cents per 40-quart can:

Distances (miles).	Beatrice scale (cream).	Newton scale.		Dixie scale (milk).
		Milk.	Cream.	
1 to 25.....	20	17	20	.....
25 to 30.....	21	18	21	.....
30 to 35.....	22	19	22	.....
35 to 40.....	23	20	23	.....
40 to 45.....	24	21	24	.....
45 to 50.....	25	22	25	.....
50 to 60.....	26	23	26	.....
60 to 70.....	27	24	27	.....
70 to 80.....	28	25	28	.....
80 to 90.....	29	26	29	.....
90 to 100.....	30	27	30	.....
100 to 115.....	31	28	31	.....
115 to 130.....	32	29	32	.....
130 to 145.....	33	30	33	30
145 to 160.....	34	31	34	31
160 to 175.....	35	32	35	32
175 to 190.....	36	33	36	33
190 to 205.....	37	34	37	34
205 to 220.....	38	35	38	35
220 to 235.....	39	36	39	.....
235 to 250.....	40	37	40	.....

The rates in the above scales have not been shown above 250 miles. In the Beatrice scale the rates increase 1 per cent per 10-gallon can for each 15 miles for distances over 250 miles up to 505 miles. In the *Dixie Case* rates were not prescribed under 130 miles nor over 220 miles. It will be noted that the Newton scale provides rates on cream 3 cents per 40-quart can higher than on milk. In each instance the rates on 5-gallon and 8-gallon cans are seven-tenths and nine-tenths, respectively, of the rates on 10-gallon cans.

It is contended by respondents that the principle of the rates on milk and cream now in effect on the Pennsylvania, Baltimore & Ohio, and other carriers proceeds on the theory, first, that the scale prescribed by the Commission in the *Beatrice Case* for sour cream in the west is a proper scale to apply on milk, the shipping conditions in both territories being considered. The second feature of the scale is that cream should take higher rates than milk, and that 25 per cent represents the proper measure of difference. Third, the respondents adopted the relationship of rates for different sized cans as fixed by the Commission in the *Beatrice Case*.

As before noted, all carriers in central freight association territory have not published the Beatrice scale for milk. In fact, the rates of many of them are not upon a reasonable zone basis, without taking into consideration the rates now in effect from the different zones. In January, 1915, the Chicago & Erie and Erie first established higher rates on cream than on milk. While not exactly on the basis of the Beatrice scale, the rates on cream now maintained by these carriers are about the same and the rates on milk are about 25 per cent lower. When questioned in regard to the adjustment then made a representative of these carriers asserted that the rates were considered low, and

were made so to develop the business. The rates on milk were not changed when the change was made in the rates on cream. The rates on milk have been in effect for many years, and it is a reasonable assumption that if they have not induced traffic the situation was not improved any by an increase in the rates on cream. On brief the Chicago & Erie and Erie defend as reasonable the adjustment of rates established by them January 1, 1915.

It is contended by Ohio cream shippers that comparison of freight rates in the territory west of the Mississippi River with those in central freight association territory, and the earnings per passenger per mile in the two territories, indicate that cream rates in the latter territory ought not to be more than 84 per cent of the Beatrice scale. They refer to the fact that freight rates are on a lower level in this territory than in western trunk line territory, and contend that the cream rates should be lower than those prescribed in the *Beatrice Case*.

We are considering here rates on commodities that move under peculiar and special conditions as compared with freight traffic generally. In central freight association territory the movement of milk into cities for daily consumption constitutes the great bulk of the business. Until 10 years ago very little cream was transported in this territory. In this territory to-day milk alone moves regularly and in sufficient volume to justify the setting aside of car space for its separate use. In the *Beatrice Case* the rates on cream alone were considered. There was little or no movement of milk to consuming centers at the time. The Fairmont Creamery Company has plants at Grand Island, Crete, and Omaha, Nebr., within 100 miles of one another. The total receipts of sour cream at the three plants are about 5,000 10-gallon cans per day, as much as the Baltimore & Ohio Southwestern traffic in both milk and cream for a month. The region where the Beatrice scale was prescribed is one where there is a heavy movement of cream and a light movement of milk. In central freight association territory the rates on milk are properly the standard with respect to which rates on cream should be made.

The contention of all parties is that the rates applicable to the transportation of milk and cream between points in central freight association territory and the rules, regulations, and practices applying in connection therewith should be upon a uniform basis. The circumstances and conditions under which the business is conducted throughout this territory make uniformity of charges and practices by respondents very desirable, if not necessary. There is not, and there can not be, any justification of such marked differences in charges and practices as now exist with respect to traffic which moves, and must continue to move, to the same points, under substantially similar circumstances and conditions.

Upon the facts of record we are of opinion and find that the rates of respondents for the interstate transportation of the commodities

set forth below in milk cans, in baggage cars, in passenger trains, between points on their respective lines in central freight association territory and from points on the Cincinnati, New Orleans & Texas Pacific, Chesapeake & Ohio, and Louisville & Nashville to Cincinnati are, and for the future will be, unreasonable to the extent that they exceed the rates, in cents per can, shown in the following table, such rates to include the return of the empty containers:

Miles.	Milk, skim milk, buttermilk, pot cheese, and curd.			Cream, condensed milk, evaporated milk, and concentrated milk.		
	5-gallon can.	8-gallon can.	10 gallon can.	5-gallon can.	8-gallon can.	10-gallon can.
5 or under.....	9.9	12.8	14.2	12.4	16	17.7
Over 5 but not over 10.....	10.6	13.7	15.2	13.3	17.1	19
Over 10 but not over 15.....	11.3	14.5	16.1	14.1	18.1	20.1
Over 15 but not over 20.....	11.9	15.3	17	14.8	19.1	21.2
Over 20 but not over 25.....	12.5	16	17.8	15.6	20	22.2
Over 25 but not over 30.....	13	16.7	18.6	16.4	20.9	23.2
Over 30 but not over 35.....	13.5	17.4	19.4	16.9	21.8	24.2
Over 35 but not over 40.....	14	18.1	20.1	17.6	22.6	25.1
Over 40 but not over 45.....	14.5	18.7	20.8	18.2	23.4	26
Over 45 but not over 50.....	15	19.3	21.5	18.8	24.2	26.8
Over 50 but not over 60.....	15.9	20.5	22.8	19.9	25.6	28.4
Over 60 but not over 70.....	16.8	21.6	24	21	27	30
Over 70 but not over 80.....	17.6	22.6	25.2	22	28.3	31.5
Over 80 but not over 90.....	18.4	23.6	26.3	23	29.6	32.9
Over 90 but not over 100.....	19.1	24.5	27.3	23.9	30.8	34.2
Over 100 but not over 110.....	19.7	25.3	28.2	24.7	31.8	35.3
Over 110 but not over 120.....	20.3	26.1	29	25.4	32.6	36.2
Over 120 but not over 130.....	20.8	26.8	29.7	26	33.4	37.1
Over 130 but not over 140.....	21.3	27.4	30.4	26.6	34.2	38
Over 140 but not over 150.....	21.7	27.9	31	27.2	34.9	38.8
Over 150 but not over 160.....	22.1	28.4	31.6	27.7	35.6	39.5
Over 160 but not over 170.....	22.5	29	32.2	28.1	36.2	40.2
Over 170 but not over 180.....	23	29.5	32.8	28.7	36.9	41
Over 180 but not over 190.....	23.4	30.1	33.4	29.2	37.5	41.7
Over 190 but not over 200.....	23.8	30.6	34	29.7	38.2	42.5
Over 200 but not over 210.....	24.2	31.1	34.6	30.2	38.9	43.2
Over 210 but not over 220.....	24.6	31.6	35.2	30.8	39.6	44
Over 220 but not over 230.....	25.1	32.2	35.8	31.3	40.2	44.7
Over 230 but not over 240.....	25.5	32.7	36.4	31.8	40.9	45.5
Over 240 but not over 250.....	25.9	33.3	37	32.3	41.6	46.2
Over 250 but not over 260.....	26.3	33.8	37.6	32.9	42.3	47
Over 260 but not over 270.....	26.7	34.4	38.2	33.4	42.9	47.7
Over 270 but not over 280.....	27.2	34.9	38.8	33.9	43.6	48.5
Over 280 but not over 290.....	27.6	35.5	39.4	34.4	44.3	49.2
Over 290 but not over 300.....	28	36	40	35	45	50
Over 300 but not over 310.....	28.4	36.5	40.6	35.5	45.7	50.8
Over 310 but not over 320.....	28.8	37.1	41.2	36	46.3	51.5
Over 320 but not over 330.....	29.3	37.6	41.8	36.5	47	52.2
Over 330 but not over 340.....	29.7	38.1	42.4	37.1	47.7	53
Over 340 but not over 350.....	30.1	38.7	43	37.6	48.4	53.7
Over 350 but not over 360.....	30.5	39.2	43.6	38.1	49	54.5
Over 360 but not over 370.....	30.9	39.8	44.2	38.6	49.7	55.2
Over 370 but not over 380.....	31.4	40.3	44.8	39.2	50.4	56
Over 380 but not over 390.....	31.8	40.9	45.4	39.7	51	56.7
Over 390 but not over 400.....	32.2	41.4	46	40.2	51.7	57.5
Over 400 but not over 410.....	32.6	41.9	46.6	40.7	52.4	58.2
Over 410 but not over 420.....	33	42.5	47.2	41.3	53.1	59
Over 420 but not over 430.....	33.5	43	47.8	41.8	53.7	59.7
Over 430 but not over 440.....	33.9	43.5	48.4	42.3	54.4	60.5
Over 440 but not over 450.....	34.3	44.1	49	42.8	55.1	61.2
Over 450 but not over 460.....	34.7	44.6	49.6	43.4	55.8	62
Over 460 but not over 470.....	35.1	45.2	50.2	43.9	56.4	62.7
Over 470 but not over 480.....	35.6	45.7	50.8	44.4	57.1	63.5
Over 480 but not over 490.....	36	46.2	51.4	44.9	57.8	64.2
Over 490 but not over 500.....	36.4	46.8	52	45.4	58.5	65
Over 500 but not over 510.....	36.8	47.3	52.6	45.9	59.2	65.7
Over 510 but not over 520.....	37.2	47.9	53.2	46.5	59.8	66.5
Over 520 but not over 530.....	37.6	48.4	53.8	47	60.5	67.2
Over 530 but not over 540.....	38	49	54.4	47.6	61.2	68
Over 540 but not over 550.....	38.5	49.5	55	48.1	61.8	68.7
Over 550 but not over 560.....	38.9	50	55.6	48.6	62.5	69.5
Over 560 but not over 570.....	39.3	50.6	56.2	49.1	63.2	70.3
Over 570 but not over 580.....	39.8	51.1	56.8	49.7	63.9	71
Over 580 but not over 590.....	40.2	51.7	57.4	50.3	64.5	71.7

In prescribing the rates we have taken into consideration the small volume of the traffic and the conditions under which it is transported. The milk and cream business in central freight association territory is relatively small. It is a pick-up service at numerous small stations or platforms. The amount shipped from all stops on any given line seldom amounts to a carload. The rates are somewhat higher than those found reasonable on shipments to New York and Philadelphia. The higher rates are justified on this record, although no refrigeration is included. Conditions of transportation of milk and cream to New York and Philadelphia are entirely different from those in central freight association territory. There is no way in which respondents here may bring to bear upon the conduct of the business methods of economical operation possible with respect to shipments to the cities named. To New York the business is conducted substantially in carload lots, at less-than-carload rates. The pick-up service there is comparatively unimportant. The hauls are long, and maximum revenue from equipment used is secured. The net revenue to respondents from the rates herein prescribed will not be unduly high and they will stand comparison with the rates prescribed in trunk line territory, when all the circumstances and conditions are considered. Rates on 5-gallon cans have been made 70 per cent of those on 10-gallon cans, and on 8-gallon cans 90 per cent of those on 10-gallon cans, which relationships were established by the Commission in the *Beatrice Case*. In the reports covering rates to Boston, New York, and Philadelphia we found that the rates on 5-gallon cans should be 56 per cent of those on 10-gallon cans, and we also found that the rates to New York on 8-gallon cans should be 84 per cent of those on 10-gallon cans. The transportation conditions in this territory are more similar to those in the territory covered by the *Beatrice Case*, therefore the relationships prescribed in that case have been established here.

We have made the scale in blocks of 5 miles each up to 50 miles, because the greater volume of milk shipped is hauled from points within that distance and shipments are rarely made from points beyond that distance. Shipping stations are generally not more than 5 miles apart. Beyond 50 miles the blocks are made uniformly 10 miles each. This arrangement permits the fixing of reasonable rates from all points, with a moderate increase from block to block, thus avoiding any just complaint from shippers of undue discrimination.

We have made the rates on cream uniformly 25 per cent higher than those on milk. It is contended by dealers in cream that rates thereon should be no higher than the rates on milk. Similar contentions were made in *New England Milk Case*, 40 I. C. C., 699; *Milk and*

Cream Rates to New York City, 45 I. C. C., 412; and *Milk and Cream Rates to Philadelphia, Pa.*, *supra*. The matter of prescribing higher rates on cream than on milk was fully discussed therein and need not be restated here. We found in those cases that respondents were justified in charging rates on cream not to exceed by more than 25 per cent those found reasonable on milk. We find that the rates on cream should not exceed the rates on milk by more than 25 per cent.

There is no basis on this record to prescribe rates on milk and cream shipped in bottles in cases or crates. Shipments of this character, so far as the record shows, are small in volume. So far as we are advised there is no complaint of existing rates on bottle shipments. The same reasons that make it advisable and proper to have rates on milk and cream in cans on a uniform basis throughout the territory apply with equal force to shipments in bottles, but the facts of record are insufficient to establish a proper relationship at this time. Rates should be established and maintained on shipments in bottles in cases or crates properly adjusted to the rates herein prescribed on shipments in cans, taking into consideration the weight and the service rendered.

It does not appear that shipments of milk and cream are made in carloads between any points in central freight association territory. There has been no demand upon respondents for carload rates. Under such circumstances we will not prescribe rates on shipments in carloads. If demand is made for such rates on shipments of milk and cream to be shipped from one consignor to one consignee from one point of origin to one destination, carload rates should be established by respondents on a reasonable basis as compared with the rates herein prescribed.

The adjustment of rates we have made disposes of contentions made in the various formal complaints consolidated herewith, and they will be dismissed. Reparation is asked in two of the complaints, but no proper basis for an award exists and none will be awarded.

In *Walter A. Hall v. P., C., & St. L. Ry. Co.*, Docket 7878, the complaint related to the reasonableness of rates on milk to Chicago. The case on that issue was heard and submitted before the general investigation was instituted. At the hearing in this proceeding a controversy arose with respect to the refusal of respondents to load milk from platforms. The tariff of the respondent contains the following provision with respect to shipments of milk and cream:

Loading: Shippers offering less-than-carload shipments are required to deliver the property on the platform, and to assist in loading it into cars.

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On brief it is stated in behalf of respondents that—

The carrier has always tried to cooperate with the shippers, both being mutually interested in the trains leaving on time and avoiding all possible delay. The carrier expects that these temporary differences can be ironed out, and that the matter can be adjusted satisfactorily to both sides. The carrier is willing to go as far as it can within reason to relieve the situation, and avoid delay to trains.

We assume that this controversy will be promptly settled between the parties, as suggested.

Rates on cream by express to Washington, D. C., are involved in *Golden & Co. v. Adams Express Co.*, 46 I. C. C., 541, and were considered in that report.

Orders will be entered in accordance with the findings herein.

46 I. C. C.

No. 8491.
WHITEVILLE LUMBER COMPANY ET AL
v.
ATLANTIC COAST LINE RAILROAD COMPANY ET AL

Submitted June 10, 1916. Decided July 20, 1917.

1. Rates on lumber from Bolton, Whiteville, and Boardman, N. C., to Norfolk and other Virginia gateways found unreasonable. Reasonable maximum rates prescribed for the future. Rates from other North Carolina points not found unreasonable or improperly related.
2. Contemporaneous maintenance of relatively lower rates on logs not shown to result in undue prejudice to complainants or their lumber traffic.
3. Complainants have not established upon this record that proportional rates to the gateways lower than the contemporaneous local rates should be required.

J. O. Carr, M. H. Allen, John D. Langston, Robert Ruark, and John R. Walker for complainants.

F. S. Spruill for interveners.

R. Walton Moore and Edward H. Hart for Atlantic Coast Line Railroad Company; Seaboard Air Line Railway; Richmond, Fredericksburg & Potomac Railroad Company; Washington Southern Railway Company; and Norfolk & Western Railway Company.

William B. Rodman for Norfolk Southern Railroad Company.

REPORT OF THE COMMISSION.

HALL, Chairman:

In this proceeding complainants attack the carload rates on lumber from points in eastern North Carolina to Norfolk, Richmond, and other "Virginia cities," hereinafter referred to as the gateways, and also to points north, east, and west thereof made by combining the separately established rates to and from the gateways. They allege that the local rates to the gateways, which range from 4 cents to 12½ cents per 100 pounds, are unreasonable to the extent that they exceed a maximum of 9 cents per 100 pounds; and that the through rates to points beyond are unreasonable to the extent that they exceed the aggregate of the present rates applicable north of the gateways, which are not attacked, plus proportional rates south of the gateways 1 cent lower than the local rates-prayed.

They further allege that defendants maintain rates on logs from points in eastern North Carolina to the gateways, where complainants' principal competitors are located, much lower than they con-

temporarily maintain on lumber from and to the same points, thereby subjecting complainants and their lumber traffic to undue prejudice and disadvantage. Manufacturers located at the gateways intervened to oppose the making of an alternative order which might result in increased rates on logs.

Rates are stated in cents per 100 pounds. The rates here in question are published from specific stations, not from defined groups, and apply both on traffic consigned to the gateways proper and on traffic destined to points beyond. The percentage of local traffic is small, and the complainants are principally concerned with the rates to the gateways applicable on through traffic.

The points of origin lie on and east of the line of the Seaboard Air Line extending from Norlina to Hamlet, the principal points being Goldsboro, Mount Olive, Boardman, Whiteville, Bolton, and Wilmington, all on the rails of the Atlantic Coast Line. Wilmington is also served by the Seaboard Air Line, and Goldsboro by the Norfolk Southern and the Southern railways, the latter not a defendant here.

The following table shows the rates and short-line distances from the points named to Norfolk (Pinnars Point), the principal gateway for through traffic; the rates which the complainants contend would be reasonable; the rates for similar short-line distances under the North Carolina intrastate scale; the rates on logs for similar distances between representative points; and the ton-mile earnings in mills:

From—	To—	Miles.	Lumber.				Logs.	
			Rate.	Ton-mile earnings.	N. C. scale.	Ton-mile earnings.	Rate.	Ton-mile earnings.
				<i>Mills.</i>		<i>Mills.</i>		<i>Mills.</i>
Goldsboro.....	Norfolk.....	156	a 8	10.45	7	9.00	.....	.....
Mount Olive.....	do.....	170	b 8	9.41	7	8.23	.....	.....
Boardman.....	do.....	264	c 12	9.28	8.5	6.44	.....	.....
Whiteville.....	do.....	282	d 12	8.51	9	6.38	.....	.....
Bolton.....	do.....	269	e 11	8.14	8.5	6.32	.....	.....
Wilmington.....	do.....	240	f 9	7.50	8	6.06	.....	.....
Whiteville.....	Suffolk.....	262	12	9.19	.....	.....	2.93	3
Verona.....	do.....	265	10.5	7.92	.....	.....	3.39	2.56
Fair Bluff.....	do.....	269	.....	.....	.....	.....	3.9	2.9
Fairmont.....	Whaley.....	223	12	10.76	.....	.....	2.71	2.43
Washington.....	do.....	101	.....	.....	.....	.....	2	3.96
							Local.	Proportional.
Rates prayed:								
a.....							7	6
b.....							7	6
c.....							9	8
d.....							9	8
e.....							24	74
f.....							8	7

Complainants call attention to the fact that the ratio of rate increase is greater as the distance increases, contrary to the usual rule. For example, while the rates increase by steps of one-half cent or 1 cent from points as far south as Goldsboro, they increase by steps of $1\frac{1}{2}$ cents from stations south of Goldsboro down to Boardman, Whiteville, and Bolton.

So, also, from Goldsboro and north thereof the rates do not exceed by more than 1 cent those for similar intrastate distances under the North Carolina scale, but are from $2\frac{1}{2}$ to 3 cents higher from Boardman, Whiteville, and Bolton, than for similar intrastate distances under that scale.

From Wilmington the rate is 9 cents; from Bolton, 29 miles west of Wilmington, it is 11 cents; and from Whiteville and Boardman, 46 miles and 64 miles, respectively, west of Wilmington it is 12 cents.

As will be seen from the above table, complainants are contending that the rate from Wilmington should be reduced to 8 cents, and that this rate should not be exceeded by more than one-half cent from Bolton, or 1 cent from Whiteville and Boardman. They assert that a reduction of 1 cent in the proportional rate would substantially meet the complaint of shippers at Goldsboro, Wilmington, and other points in the same rate zones, but would not afford the mills at Bolton, Whiteville, and Boardman the full relief to which they are entitled.

Defendants reply that the Wilmington rate is affected by water competition to New York and other eastern ports and therefore should not be used as a base for graduating rates from inland points west of Wilmington.

It is said by complainants that most of the lumber now shipped from Wilmington is dressed lumber, which does not move to any extent by water, and that the present Wilmington rate is not to be viewed as controlled by water competition or as representing anything more than a normal rate. They refer to *Hilton Lumber Co. v. Wilmington & W. R. R. Co. et al.*, 9 I. C. C., 17, as affording the real explanation for this rate. We can not hold upon this record that the present rate from Wilmington has not been influenced by water competition.

The lumber rates to Norfolk from points on the Fayetteville to Wilmington branch of the Atlantic Coast Line were before us in *Cherokee Lumber Co. v. A. C. L. R. R. Co.*, 27 I. C. C., 438, decided June 3, 1913. They were $10\frac{1}{2}$ cents from stations Richards to Sellers, inclusive, and $9\frac{1}{2}$ cents from Sellers to Fayetteville, inclusive. The average distance from that complainant's mills to Richmond and Norfolk was 268 miles and the ton-mile yield 7.8 mills, on traffic "moving via Fayetteville or Wilmington." The average distance

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was 254 miles and the ton-mile yield 8.2 mills on traffic moving through Fayetteville. We said concerning those rates: "Considering that the traffic moves on a branch line through a comparatively thinly populated region, we are unable to find that they are unreasonable." We found, however, that—

The maintenance of a 10.5-cent rate from points south of Fayetteville and a 9-cent rate from points north thereof on the Sanford line subjects complainants to undue prejudice and disadvantage, and that defendants should be required to maintain rates from points between Fayetteville and Wilmington to the Virginia cities mentioned in the petition which shall be no higher for equal distances than those contemporaneously maintained to the same destinations from points between Sanford and Fayetteville.

As a result, the rates from points both on the Fayetteville to Sanford branch and on the Fayetteville to Wilmington branch were revised to the present basis.

By comparison with the rates considered in the case last cited, and with the Atlantic Coast Line's rates from Wilmington and other points in eastern North Carolina, and having in mind the influence of water competition on the rate from Wilmington, we find that the rate from Bolton is and for the future will be unreasonable to the extent that it exceeds 10½ cents; that the rates from Whiteville and Boardman are and for the future will be unreasonable to the extent that they exceed 11 cents; and that the rates from Goldsboro, Mount Olive, and Wilmington are not shown to be unreasonable or improperly related.

The revision of the rates from Bolton, Whiteville, and Boardman should be accompanied by a corresponding realignment of the rates from intermediate points. This disposes of such contentions of the complainants as are supported by the record with respect to the reasonableness and propriety of these rates, considered as applicable on both local and through traffic. The alleged undue preference of logs, and the request for proportional rates lower than the local rates remain for consideration.

UNDUE PREFERENCE.

By reference to the foregoing table it will be seen that the rates on logs from points in eastern North Carolina to certain of the gateways, alleged to be unduly preferential, are much lower than the complainants' rates on lumber. Defendants state that these rates are abnormally low, but claim that they yield something more than the cost of service and do not burden other traffic.

They explain that while these rates on logs were established and are maintained voluntarily, in a sense, they are really to be viewed as rates forced upon the carriers by conditions beyond their control;

46 L. C. C.

that they had their inception in a low scale of log rates established some years ago by the Atlantic Coast Line for application between certain points on its line in North Carolina, provided it received for transportation the outbound shipments of the manufactured lumber; that upon complaint of undue prejudice from manufacturers at other points in North Carolina, from which the rates were withheld, the same basis of rates was required by the state authorities to be established between all points in the state, without any restriction as to the subsequent movement of manufactured products; that when the interveners located their manufacturing plants at the gateways, intending to draw a portion of their log supply from eastern North Carolina, the Atlantic Coast Line was compelled, in arriving at a basis which would enable them to compete with manufacturers in North Carolina, to take these rates into account; and that the rates here assailed as unduly preferential are the result. They are commodity rates, published only from certain points, the lumber rates applying on logs from other points. Complainants seem divided in opinion as to whether, after prescribing reasonable maximum rates on lumber, we should further enter an order requiring the removal of any undue prejudice found to exist against lumber and which might be complied with by increasing the rates on logs.

Apparently what the complainants principally desire is a reduction in their rates on lumber and not an increase in their competitors' rates on logs, and reference to the log rates is primarily for comparison. We are not convinced that the log rates afford a proper measure for the rates on lumber. The evidence does not warrant a finding that the complainants or their lumber traffic are being subjected to undue prejudice and disadvantage.

PROPORTIONAL RATES.

Complainants presented little evidence in support of their contention that the rates to the gateways on through shipments should be less than on local traffic. They submit, as bearing upon the relative costs of the through and local services, certain exhibits filed in other cases and relating to points other than the gateways. Apparently they rely largely upon the general proposition that proportional rates should be less than local rates between the same points, stating in their brief, concerning the application to the gateways of a common rate on through and local shipments, that they "believe that this fact of itself demonstrates the unreasonableness of their through rates * * *."

The defendants introduced evidence purporting to show that on the whole it costs as much to handle through shipments as local shipments at the gateways, and contend that the present rates are essentially proportional rather than local rates, because, as stated before, most of the shipments to the gateways are destined to points beyond.

Complainants have not shown that the rates to the gateways are too high when applied on through shipments, or that the through rates of which they are a part are unreasonable. We do not feel justified in requiring reduction merely that there may be proportional rates to the gateways lower than the contemporaneous local rates.

An order will be entered prescribing the maximum rates from Bolton, Whiteville, and Boardman herein found reasonable.

46 I. C. C.

COAL TO SOUTH DAKOTA.

No. 5622.

IN THE MATTER OF RATES ON COAL, CARLOADS, FROM POINTS IN WYOMING AND MONTANA TO POINTS IN SOUTH DAKOTA.

Submitted January 15, 1916. Decided July 3, 1917.

1. Rates on coal from mines in the state of Wyoming to certain destinations in the state of South Dakota on the lines of the Chicago & North Western Railway and the Chicago, Milwaukee & St. Paul Railway east of Rapid City and Miles City, found to be unreasonable and unduly prejudicial as compared with the rates voluntarily maintained by the defendants to substantially equidistant points in Nebraska.
2. Through rates, joint or local, to all points in South Dakota on the Chicago & North Western Railway and the Chicago, Milwaukee & St. Paul Railway to which through routes are open, should be established by the Chicago, Burlington & Quincy Railroad Company from mines at Sheridan and Kirby, by the Chicago & North Western Railway Company from mines at Hudson and Glenrock, by the Union Pacific Railroad Company from mines at Rock Springs and Hanna, and by the Oregon Short Line Railroad Company from its mines at Cumberland, and such through rates should more nearly approximate the joint and local rates published by these same carriers from the same mines to points substantially equidistant in Nebraska and other states.
3. The rates on coal from Glenrock to destinations in South Dakota should be on a basis not less than 50 cents lower than the rates from Hudson to the same destinations, and the rates from Hanna to South Dakota destinations should be on a basis not less than 50 cents lower than the rates from Rock Springs to the same destinations.

P. W. Dougherty, D. L. Kelley, D. L. Bitney, F. C. Robinson, J. J. Murphy, W. G. Smith, and Oliver E. Sweet for South Dakota Railroad Commissioners.

T. J. Morgans for Mitchell Commercial Club; *A. J. Branscom* for Aberdeen Commercial Club; *R. D. Springer* for Traffic Bureau, Sioux Falls Commercial Club.

Ora Darnell for Acme Coal Company; *Peter Kooi* for Peter Kooi Mine; *A. W. Pollock* for Monarch Coal Mining Company; *W. A. Ickes* for Carney Coal Company; *John P. McElroy* for Sheridan Coal Mining Company; and *W. H. Young* for Fairview Coal Company.

R. H. Widdiscombe for Chicago & North Western Railway Company; *O. W. Dynes* for Chicago, Milwaukee & St. Paul Railway Company; *J. F. Finerty* and *W. A. Holley* for Great Northern Railway Company; *R. B. Scott* and *W. A. Holley* for Chicago, Burlington & Quincy Railroad Company; and *C. Frankenburger* for Union Pacific Railroad Company and Oregon Short Line Railroad Company.

REPORT OF THE COMMISSION.

HARLAN, Commissioner:

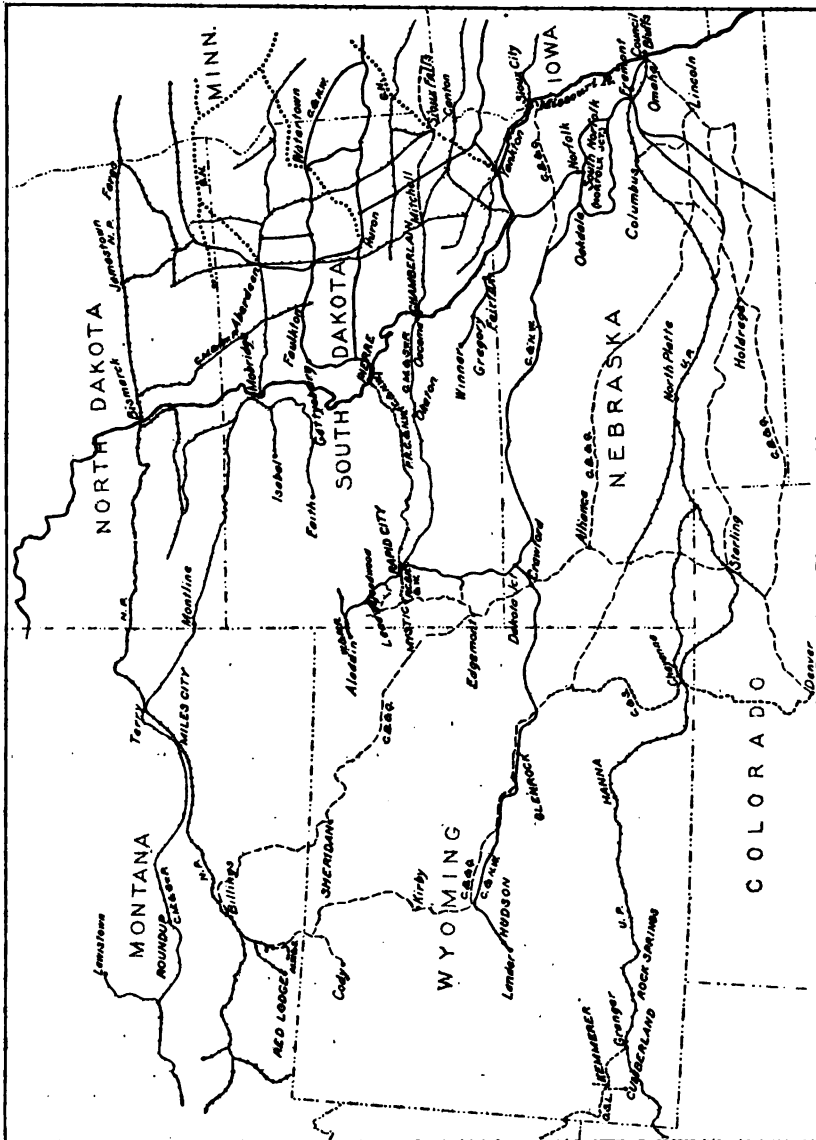
This proceeding was instituted in response to a resolution of the legislative assembly of the state of South Dakota, requesting an investigation of the rates to destinations in that state on coal shipped from mines in the states of Wyoming and Montana. The principal coal shipping points in Wyoming are Sheridan and Kirby, on the Chicago, Burlington & Quincy Railroad; Hudson and Glen Rock, on the Chicago & North Western Railway; Rock Springs and Hanna, on the Union Pacific Railroad, and Cumberland, on the Oregon Short Line Railroad. The Montana mines are at Roundup, on the Chicago, Milwaukee & St. Paul Railway, and at Red Lodge, on the Northern Pacific Railway. The rates referred to herein are for lump coal. The carriers very generally throughout this western territory provide for a lower basis of rates on pea, slack, and other grades, ranging ordinarily 25 cents, 50 cents, and up to \$1.10 under the rate on lump coal.

Generally speaking, the through charges from these mines to destinations in South Dakota east of the Missouri River are based upon the combination of local rates. To points west of the Missouri River between Rapid City and Fort Pierre, on the North Western, and between Rapid City and Chamberlain, on the Milwaukee, and to stations in what is known as the Black Hills district the charges are based on the rates to and from Rapid City. At the same time, however, through rates are maintained to points in North Dakota, Nebraska, Iowa, Missouri, Kansas, and Colorado that are lower than would result from the application of the combination of local rates. The Board of Railroad Commissioners of South Dakota, hereinafter referred to as the complainant, contends that the combination rates from the western mines to destinations in that state, as well as many of the so-called through rates now maintained to South Dakota points, are unjust, unreasonable, and discriminatory. Specifically it alleges that the rates from the Union Pacific mines in Wyoming (a) to points on the North Western between Rapid City and Pierre, (b) to points on the Winner branch of that line, and (c) to points on the Black Hills division of the Milwaukee from Rapid City to

Chamberlain, are unreasonable and discriminatory to the extent that they exceed the general basis of rates to points in Nebraska and other western states. It is conceded, however, that inasmuch as the haul from the Union Pacific mines is over the rails of three or four different carriers, the basis of rates from those mines may properly be higher than that applied from Sheridan.

While this investigation was in progress the Commission, in *Sheridan Chamber of Commerce v. C., B. & Q. R. R. Co.*, 26 I. C. C., 638, disposed of three formal complaints involving the reasonableness of the rates on coal from Sheridan, (1) to points in the states of Nebraska and South Dakota on the lines of the North Western west of the Missouri River; (2) to points on the line of the Milwaukee in the latter state between Rapid City and Chamberlain; and (3) to points on the Northern Pacific and connecting lines in the states of Montana, North Dakota, Idaho, Washington, and Oregon. The conclusions there reached required of the defendant (a) the establishment of joint rates over the Burlington and North Western, from the mines at Sheridan to points on the North Western in Nebraska and South Dakota, that would in no case exceed the rates from Hudson to the same points of destination; (b) the establishment of joint rates by the Burlington, the Rapid City, Black Hills & Western, and the Milwaukee from Sheridan to Chamberlain, not exceeding the rate of \$3.95 from Roundup to Chamberlain, with the further requirement that the \$3.95 rate should be carried as far back as Okaton, 85.7 miles west of Chamberlain. We held also that the rates from Sheridan to points between 500 and 600 miles distant therefrom should not exceed by more than 15 cents a ton the rates to the same destinations from Red Lodge, in the state of Montana; and that the rates to points between 600 and 700 miles distant from Sheridan should not exceed the Red Lodge rates by more than 5 cents a ton; and that to points over 700 miles distant the rates from Sheridan should be the same as the rates from Red Lodge. A rehearing with respect to certain phases of the case was granted, but the report therein, 28 I. C. C., 250, was directed largely to the relationship between the rates of the Burlington from Sheridan and Kirby and those of the North Western from Hudson to points on the line of that carrier in South Dakota west of the Missouri River. The order then entered required (a) the establishment from Sheridan to points on the North Western and the Pierre, Rapid City & North Western of rates that should not exceed the rates to the same destinations from Hudson; and (b) the establishment of joint rates from Kirby to destinations on the same two carriers that should not exceed by more than \$1 per ton the rates prescribed from Sheridan.

The general situation with respect to the Wyoming and Montana coal fields is fully described in the two reports just mentioned and need not be repeated here. But it is here contended that our findings in those cases only partially relieved the situation and did



not result in the establishment of such rates as would permit a free movement of coal from the Wyoming and Montana mines to any points in South Dakota east of the Missouri River. The foregoing map shows the routes over which the traffic moves.

We have already explained that to certain destinations in South Dakota on the lines of the Milwaukee and North Western west of the Missouri River the through charges are based on the sum of the rates to and from Rapid City. The rates per ton to that point from the several mining districts are shown in the following table:

Sheridan -----	\$2.25
Kirby -----	3.25
Hudson -----	2.25
Glen Rock -----	2.15
Rock Springs -----	4.00
Hanna -----	4.00
Cumberland -----	4.00

The rates from the mines in Wyoming and Montana to points on the North Western and Milwaukee in South Dakota east of the Missouri River, or points east of Miles City, in the state of Montana, are made by adding to the rates to Rapid City or Miles City the distance tariff or class D rates from one or the other of those two gateways to destinations. From Sheridan and Kirby to Miles City the joint rates are \$1.95 and \$2.20, respectively. To some destinations in South Dakota still other combinations are used, the through rates to eastern Nebraska or western Iowa points in some cases being taken as basing rates. This sometimes results in lower rates to the more distant points. Worthing, in the state of South Dakota, for example, is 9 miles west of Canton in the same state, on the line of the Milwaukee, and the rates to both points are based on the combination on Sioux City. The rate from Sheridan to Sioux City is \$3.25, and from Sioux City to Canton \$1.10, and to Worthing \$1.70. Based on the Sioux City combination, therefore, the rate from Sheridan to Worthing, a distance of 689 miles, is \$4.95, while the rate to Canton, 698 miles distant, is \$4.35.

It is the contention of the complainant that the North Western and the Milwaukee by their rate adjustments have so influenced the movement of coal from eastern mines to stations on their lines in South Dakota as to secure the long haul for their respective lines, with the result that Wyoming coal does not move to points in South Dakota east of Rapid City. Generally speaking, the rates from a given Pennsylvania, West Virginia, or Ohio coal-producing group are the same to the docks on Lake Ontario or Lake Erie. During the season of navigation, with some exceptions, the cargo rate to the head of the lakes or ports on the western shore of Lake Michigan has been 30 cents per ton. As a result of adding the initial rail rates, dockage charges, and cargo rates to the purchase price at the mine, the selling price at the Lake Michigan and Lake Superior docks of coal from the Hocking Valley and the Pocahontas fields was

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at the time of the hearing about \$3.55 a ton. Coal from other mining districts, including northern Illinois, must meet this price, and, to preserve the necessary parity, the freight rates to practically every station in the state of South Dakota are made the same from the northern Illinois mines as from the Lake Michigan and Lake Superior docks. The lines serving the docks at Green Bay, Milwaukee, Chicago, and that also serve the northern Illinois mines, although having longer hauls than the lines from the head of the lakes, have nevertheless met the rates from Duluth and Superior in order that coal from the Lake Michigan docks and from northern Illinois may compete with coal from the head of the lakes. The resultant situation is shown in the following table, Aberdeen, in the state of South Dakota, being the destination to which it applies:

From—	Mileage.	Rate.	Ton-mile earnings.
Duluth.....	1 380	\$2.55	<i>Mills.</i> 6.71
Milwaukee.....	1 445	2.55	5.73
Cherry (northern Illinois).....	615	2.55	4.14
	604	2.55	3.67

¹ Great Northern mileage.

² C., M. & St. P. mileage.

There is of record an exhibit showing the rail distances from Sheridan to representative stations in the eastern part of South Dakota as compared with distances involved in the transportation of fuel from other coal fields. The rates and distances to Pierre, a typical destination, are as follows:

	Pierre (miles).	Rate.
Sheridan.....	500	\$4.86
Southern Illinois.....	1,045	4.45
Albia, Iowa.....	578	2.88

It is stated of record that because of its superior quality as compared with the Iowa coals, the coal mined at Sheridan is preferred, but in view of the rates on Sheridan coal the consumers in South Dakota are compelled to use the coal from Ohio, West Virginia, Kentucky, and Pennsylvania, although the latter coals must be hauled sometimes in excess of 2,000 miles. From the Pittsburgh region in Pennsylvania, to Huron, in the state of South Dakota, the average transportation charge during the past year was \$4.07 a ton, made up as follows: 75 cents from the mines to the Lake Erie ports; 5 cents loading charges at the port; 32 cents from the Lake Erie ports to Duluth; 40 cents dock charges at Duluth,

and a rate of \$2.55 from Duluth to Huron. As compared with this through charge of \$4.07, which involves two rail movements and a water haul totaling approximately 2,000 miles, the present rate from Sheridan to Huron, 617 miles, is \$5.76. The complainant alleges that the situation at Huron is representative and shows the economic unsoundness of a rate adjustment which forces the movement of coal from fields 2,000 miles distant in preference to that from an adjacent state. Its position is that the dealers and consumers of coal in South Dakota are entitled to rates from the near-by coal fields that shall be reasonable in and of themselves; and on the brief it is made clear that an order requiring the carriers to establish rates into the territory east of Rapid City on the same general level as the rates now in effect to the territory west of that junction will satisfy the complaint. It is urged that there is no such difference in operating and traffic conditions as to warrant the adjustment of rates at present maintained from the western mines in question. The lines of the Burlington and the North Western extending south, west, and north of Rapid City traverse mountainous territory, and because of excessive grades and unusual degrees of curvature operating conditions are somewhat difficult; on the other hand, the lines of the North Western and Milwaukee extending east from Rapid City traverse a territory that slopes in the direction of the Missouri River, and to points in this territory the haul from the western mines differs but little from the haul from the same mines to points in Nebraska. The operating ratio on the Black Hills division of the Milwaukee between Rapid City and the Missouri River is said by that carrier to be 181.42; the Railroad Commission of South Dakota contends, however, that this ratio is but 95.8. Evidence was introduced by the carriers tending to prove that on the line of the North Western in the state of South Dakota, not including the Pierre, Rapid City & North Western division, the total operating expenses for the year 1914 exceeded the total operating revenue by \$783,762.48; an exhibit introduced by the South Dakota Railroad Commission tends to show that the gross revenues of the North Western in that state for that year exceeded the aggregate of operating expenses, taxes, interest on bonds, charges against income, etc., by \$715,288.50. The carriers show that the density of traffic on these two branch lines extending westwardly from Pierre and Chamberlain is less than that over the lines by which the competitive coal moves from the east to destinations in South Dakota; counsel for the complainant answers that this condition would be improved if a fair and reasonable schedule of rates was promulgated and that these branch lines, being portions of two prosperous systems, should not be segregated

for the purpose of showing alleged unfavorable operating conditions. The respondents contend that there is no demand in eastern South Dakota for the Wyoming coal, while the complainant answers that this is due to the excessive freight rates.

It is unnecessary to state further the contentions of the parties to the proceeding. Suffice it to say that upon the record the rates to points on the lines of the North Western and Milwaukee between Rapid City and the Missouri River are shown to be improperly adjusted as compared with the rates voluntarily maintained by the same carriers from the same mines for similar distances under substantially like operating conditions, to destinations in Nebraska and North Dakota on their own and other lines.

The following table shows the rates now in effect from the several mining points to numerous destinations in this general territory:

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Average distances and rates on lump coal from mines in Wyoming and Montana to destinations in North Dakota, South Dakota, and Nebraska.

To destinations on—	From Sheridan, Wyo. (C., B. & Q.)				From Kirby, Wyo. (C., B. & Q.)				From Hudson, Wyo. (C., & N. W.)				From Glenrock, Wyo. (C., & N. W.)			
	No. of partic- ipating lines.	Average distance in miles.	Average rate.		Average distance in miles.	Average rate.		No. of partic- ipating lines.	Average distance in miles.	Average rate.		Average distance in miles.	Average rate.		Average distance in miles.	Per ton- ton. mils.
			Per ton- ton. mils.	Per ton- ton. mils.		Per ton- ton. mils.	Per ton- ton. mils.			Per ton- ton. mils.	Per ton- ton. mils.		Per ton- ton. mils.	Per ton- ton. mils.		
C. & N. W., Black Hills, S. Dak.	2	364	2.47	6.8	573	3.49	6.1	1	441	2.39	5.9	279	2.34	5.9	8.5	
C. B. & Q., Black Hills, S. Dak.	1	294	2.33	8.0	547	3.33	5.9	2	439	2.33	6.7	267	3.17	6.7	11.9	
C. & N. W. between Rapid City and Fort Pierre, S. Dak.	3	423	3.64	8.6	651	4.65	7.1	1	516	3.64	7.0	354	3.47	7.0	9.8	
C. N. & W. between Lemmon and Moreau Junction, S. Dak.	2	770	4.03	5.2	1,045	5.03	4.8	1	798	4.03	5.9	633	3.53	5.9	5.8	
C. M. & St. P. between Lemmon and Moreau Junction, S. Dak.	3	555	4.65	8.4	595	4.90	8.3									
C. M. & St. P. Palto & Isabel branch, S. Dak.	3	665	5.29	8.0	705	5.54	7.9									
C. M. & St. P. between Rapid City and Cham- berlain, S. Dak.	3	442	3.63	8.3	670	4.63	6.9	2	537	3.81	7.1	375	4.74	7.1	12.5	
C. & N. W. between Pierre and Elkton, S. Dak.	3	610	5.64	9.2	838	6.37	7.5	1	704	5.64	8.0	542	5.54	8.0	10.2	
C. & N. W. between Blunt and Goodwin, S. Dak.	3	634	5.54	9.2	862	6.59	7.5	1	738	5.54	8.0	563	5.74	8.0	10.1	
C. M. & St. P. between Moberg and Milbank, S. Dak.	3	703	4.83	6.9	743	5.07	6.9									
C. M. & St. P. between Chamberlain and Cam- berton, S. Dak.	3	631	4.03	8.0	859	5.43	6.3	2	725	6.00	7.8	563	5.00	7.8	9.0	
C. & N. W. in Nebraska	3	612	3.35	5.3	777	4.26	5.5	1	645	3.26	5.0	492	2.56	5.0	6.2	
C. B. & Q. in Nebraska	1	660	3.13	4.8	671	3.66	5.5	2	635	3.35	5.3	523	3.30	5.3	6.4	
Union Pacific in Nebraska	2	586	3.37	5.0	635	3.92	6.3	3	628	3.77	6.1	461	4.06	6.1	8.3	
St. J. & G. I. in Nebraska	2	652	3.25	5.0	707	3.75	5.3	3	659	3.53	5.8	497	3.13	5.8	6.3	
Northern Pacific in North Dakota	2	643	3.33	5.5	683	3.76	5.5									

To destinations on—	From Rock Springs, Wyo. (U. P.).				From Hanna, Wyo. (U. P.).				From Cumberland, Wyo. (O. & L.).				From Roundup, Mont. (C., M. & St. P.).			
	No. of partic- ipating lines.	Average rate.		Average distance in miles.	Average distance in miles.	Average rate.		No. of partic- ipating lines.	Average distance in miles.	Average rate.		No. of partic- ipating lines.	Average distance in miles.	Average rate.		
		Per ton.	Per ton- miles.			Per ton.	Per ton- miles.			Per ton.	Per ton- miles.			Per ton.	Per ton- miles.	
C. & N. W., Black Hills, S. Dak.	3	694	4.31	6.3	285	4.19	8.0	4	787	4.23	5.4					
C. P. & Q., Black Hills, S. Dak.	3	670	4.99	7.5	251	4.99	9.1	3	813	4.99	6.1					
C. & N. W., between Rapid City and Fort Pierre, S. Dak.	3	728	5.79	7.6	290	5.79	9.7	4	864	5.79	6.7					
C. & N. W., Winner branch, S. Dak.	3	813	4.75	5.2	775	4.75	6.3	3	1,013	4.75	4.7					
C. M. & St. P., between Lemmon and Moreau Junction, S. Dak.																
C. M. & St. P., Faith & Isabel branch, S. Dak.												1	411	4.70	5.4	
C. M. & St. P., between Rapid City and Chamberlain, S. Dak.	4	777	6.55	3.4	613	6.39	10.3	5	880	6.56	7.4	1	519	3.34	8.5	
C. & N. W., between Pierre and Elkton, S. Dak.	3	946	7.37	7.8	787	6.92	8.8	4	1,069	7.34	7.0	3	893	5.61	6.4	
C. & N. W., between Blunt and Good- win, S. Dak.	3	972	7.00	7.8	812	7.37	9.1	4	1,074	7.61	7.1	2	867	4.20	6.3	
C. M. & St. P., between Mobridge and Millbank, S. Dak.												2	806	3.95	6.5	
C. M. & St. P., between Chamberlain and Canton, S. Dak.	4	965	6.98	7.1	347	6.00	7.4	5	1,083	6.93	6.5	1	532	2.57	8.2	
C. & N. W., in Nebraska.	3	772	4.14	2.5	611	4.07	6.9	4	853	4.14	4.8		725	2.33	2.9	
Union Pacific in Nebraska.	1	461	2.60	4.2	460	2.13	6.4	3	733	2.60	4.9					
St. P. & G. T. in Nebraska.	3	713	2.60	4.2	398	2.33	6.1	3	825	2.60	4.5					
C. M. & St. P., in North Dakota; Main line Montana to Petrol; Branch lines connecting												1	306	2.57	2.3	
												1	340	2.08	2.3	

As to the rates to points on the so-called Winner branch of the North Western, it is alleged that they are unreasonable and discriminatory to the extent that they exceed the rates from the same points of origin to destinations in Nebraska. The Winner branch of the North Western extends from Winner, in the state of South Dakota, to Norfolk Junction, in the state of Nebraska on the main line, 626 miles east of Sheridan, and 177 miles southeast of Winner, the total distance from Sheridan to Winner being 803 miles. In the following table comparison is made of the rates from the mining points in question to points on the Winner branch with rates to Nebraska points, the unweighted averages, distances, and ton-mile revenues being shown:

From—	To points on Winner branch.			To Nebraska points.		
	Distance.	Rate.	Ton-mile earnings (mills).	Distance.	Rate.	Ton-mile earnings (mills).
Sheridan.....	779	4.08	3.2	1080	3.18	3.5
Hudson.....	798	4.08	3.0	945	3.20	3.0
Rock Springs.....	912	4.75	3.3	951	3.00	3.5
Hanna.....	753	4.75	3.3	980	3.13	3.4
Cumberland.....	1,015	4.75	4.7	783	3.00	4.0

¹ C., B. & Q. mileage.

² C. & N. W. mileage.

³ U. P. mileage.

From the facts adduced of record the rates from these various western mines to stations on the Winner branch are not shown to be unreasonable or improperly adjusted, as compared with the rates maintained by the carriers from the mines which they respectively serve to points on their own lines in Nebraska.

At the hearing the Fairview Coal Company, operating a mine at Glenrock, in the state of Wyoming, on the line of the North Western 162 miles east of Hudson, was granted leave to intervene and offer testimony with respect to the relationship which should exist between the rates on coal from its mines and the rates from Hudson and Sheridan to the same destinations in South Dakota. A determination of this question necessarily involves also a consideration of the relationship between the rates to the same destinations from Rock Springs and Hanna. The present rates from Hudson to local points along the line of the North Western in Nebraska are from 25 cents to 75 cents higher than the rates from Glenrock to the same destinations; to destinations on the North Western in South Dakota, except on the Winner branch, the Hudson rates are but 10 cents higher than the Glenrock rates. Rock Springs is on the Union Pacific 162 miles west of Hanna. To destinations on the Union Pacific in Nebraska the rates from Rock Springs are from 50 cents to \$1 higher than the

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rates from Hanna, but to South Dakota destinations the rates from Hanna are substantially the same as the rates from Rock Springs. The rates of the Burlington from Kirby to points on its line in Nebraska are from 50 cents to 75 cents higher than the rates from Sheridan to the same destinations, the difference in distance being about 50 miles. On traffic to South Dakota points, moving by way of Rapid City, the rates from Kirby are uniformly \$1 a ton higher than the rates from Sheridan. The basis upon which these various differentials are applied is not disclosed of record, but if the Union Pacific and the North Western, as to Nebraska traffic, publish lower rates from Hanna than from Rock Springs, and lower rates from Glenrock than from Hudson we see no reason why such differentials should not be applied also from the same points of origin on shipments to South Dakota destinations, the operating conditions and differences in distance being substantially the same.

In *Sheridan Chamber of Commerce v. C., B. & Q. R. R. Co.*, *supra*, the reasonableness of the rates was not in issue. The single-line rates established by the carriers were accepted by all parties as the measure of what the carriers themselves deemed to be reasonable rates from the coal-producing territory to the coal-consuming territory in question. The complainant in the present case raises no question as to the propriety of the findings in that case; but here the question is as to the reasonableness of the rates from mines in Wyoming to destinations in South Dakota east of Rapid City.

No complaint is made against the rates to points on the Burlington or the North Western in the Black Hills. Except as to a few stations north of Whitewood the complainant concedes that those rates are fairly reasonable for the services and distances involved. As to these latter rates the information of record is insufficient to enable us to express an opinion with respect to their reasonableness.

Some criticism was made of the rates from Roundup to stations on the Faith and Isabel branch lines of the Milwaukee west of Mobridge and to certain points on the North Western in South Dakota. We do not find, however, that the present rates of the Milwaukee from the Roundup mines to destination in South Dakota are unreasonable or out of harmony with the general scheme of rates from the mines in Wyoming under the readjustment herein suggested.

Upon all the facts of record we conclude and find that the rates on lump coal from Sheridan, Kirby, Hudson, Glenrock, Rock Springs, Hanna, and Cumberland to points in South Dakota on the lines of the Chicago & North Western Railway and its subsidiary lines east of Rapid City, except to points on the Winner branch, and to points on the Chicago, Milwaukee & St. Paul Railway and its subsidiary lines east of Rapid City and Miles City, are unreasonable and

unduly prejudicial to the extent they exceed the rates voluntarily maintained by the defendants from the same mines to points in Nebraska substantially equidistant on the Chicago & North Western Railway, the Chicago, Burlington & Quincy Railroad, and the Union Pacific lines. We further find that through rates, joint or local, to all points in South Dakota on the Chicago & North Western Railway and the Chicago, Milwaukee & St. Paul Railway, to which through routes are open, should be established by the Chicago, Burlington & Quincy Railroad Company from the mines at Sheridan and Kirby, by the Chicago & North Western Railway Company from the mines at Hudson and Glenrock, by the Union Pacific Railroad Company from the mines at Rock Springs and Hanna, and by the Oregon Short Line Railroad Company from the mines at Cumberland, and that such through rates should more nearly approximate the joint and local rates published by these same carriers from their respective mines to points substantially equidistant in Nebraska and other states. By applying from the points of origin above named the present rates to Rapid City or Miles City, as routed, plus reasonable proportional, divisional, or specific rates from these gateways to South Dakota destinations, we think the principal cause of complaint in this proceeding will be removed.

We conclude and find also that the rates on lump coal from Glenrock to destinations in South Dakota for the future should be on a basis not less than 50 cents lower than the rates from Hudson to the same destinations and that the rates on lump coal from Hanna to South Dakota destinations should be on a basis not less than 50 cents lower than the rates from Rock Springs to the same destination.

No order will be entered at this time, but we shall expect the carriers within 60 days from the service of this report to submit for our approval a general scheme of rates on lump coal to South Dakota points from the fields aforesaid and on the basis here suggested with such modifications as may be deemed necessary for the purpose of equalizing competitive or other conditions.

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No. 8758.
CHICAGO BRIDGE & IRON COMPANY
v.
ERIE RAILROAD COMPANY ET AL

Submitted November 11, 1916. Decided July 20, 1917.

Held, unduly prejudicial to complainant and its traffic for defendants to deny fabrication-in-transit service at Greenville, Pa., on carload shipments of certain iron and steel articles there fabricated into material for the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks, while contemporaneously according such service under tariffs to which defendants are parties on carload shipments of similar iron and steel articles fabricated at other points for use in the construction of bridges or buildings. Reparation denied.

Walter E. McCornack and Stephen A. Poyer for complainant.
W. W. Collins, jr., and M. B. Pierce for defendants.

REPORT OF THE COMMISSION.

HALL, Chairman:

Complainant is an Illinois corporation with a plant at Greenville, Pa., on the line of the Erie Railroad Company, where it is engaged in fabricating iron and steel articles into material for use in the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks. By complaint, filed March 24, 1916, it alleges, first, that existing schedules, although otherwise construed by the defendants, provide a fabrication-in-transit service at Greenville, Pa., on unfabricated material shipped to Greenville in carloads, there fabricated into complainant's products and reshipped in carloads, and, second, that if these schedules do not so provide, defendants' failure to accord such fabrication-in-transit service is unreasonable, unjustly discriminatory, and unduly prejudicial. Reparation is asked.

Complainant's plant at Greenville was erected in 1910. From that time until February 1, 1916, when the present rules became effective, the fabrication-in-transit service now sought was accorded by defendants.

Present transit rules provide for the application of through rates, plus a transit charge of 1½ cents per 100 pounds, on certain iron and steel articles, viz, angles, bars, beams, bolts, castings, channels, columns, girders, plates, nuts, rivets, rods, tees, and zeos, shipped in

carloads to Greenville, there fabricated into "material for the iron and steel framework or sections of bridges or buildings" and re-shipped in carloads.

PRESENT TRANSIT RULES CONSTRUED.

Complainant contends that towers, tanks, standpipes, steel riveted pipes, and smokestacks are "buildings" within the meaning of the tariff and for that reason its shipments are entitled to the fabrication-in-transit service. We can not agree with this contention. The transit rules under consideration were suspended by us and, during the suspension proceedings, were treated by all interested parties, including the complainant here, who was the protestant then, as withdrawing the fabrication-in-transit service at Greenville in so far as it applied to complainant's shipments. In that case, *Fabrication in Transit at Greenville, Pa.*, 37 I. C. C., 370-371, hereinafter called the suspension case, we said:

* * * the effect of the proposed schedules would be to withdraw the arrangement of stopping its (Chicago Bridge & Iron Company's) shipments at Greenville accorded by * * * provisions of the existing schedules.

Any doubt concerning the meaning of the tariff which might have arisen otherwise was thus precluded.

PROPRIETY OF PRESENT TRANSIT RULES.

Fabrication in transit in central freight association territory was discussed in *Fabrication in Transit Charges*, 29 I. C. C., 70, where it was said at page 83:

At the hearings it was intimated by protestants that it would be desirable to have the transit service extended to include fabrication of structures other than bridges and buildings. As indicated in our discussion with regard to the propriety of fabrication in transit in general, we should not look with favor upon such an extension of the service unless it were clearly shown to be necessary to avoid discrimination, promote commerce, and for other proper and lawful purposes. We are in sympathy with the carriers' determination not to include additional processes in the fabrication provisions of their tariffs. However, in industries in which the service has been established it should be made inclusive enough to accomplish the purpose for which it is designed, freely and without unnecessary annoyances and restrictions. With that end in view, the list of articles in respondents' tariffs should be made to include all articles necessary for the fabrication of sections of bridges and buildings. This list should be made uniform in tariffs of all the respondents.

Following this expression, the defendants filed the present schedules in an effort, they say, to restrict fabrication-in-transit service in accordance with the views expressed. The operation of these

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schedules was suspended, as stated above, upon the protest of the complainant here. In the suspension case we held that the then proposed rules, now effective, had been justified. Complainant asks that upon the more comprehensive record in this case we reverse our findings in the suspension case.

Complainant purchases its unfabricated material from Pittsburgh, Pa., when the fabricated material is to be reshipped from Greenville to points east thereof, and from Buffalo, N. Y., when the fabricated material is to be reshipped from Greenville to points west thereof. In the absence of fabrication-in-transit service at Greenville complainant now pays local rates to Greenville on its unfabricated material, and local rates from Greenville to destination on its fabricated material. The aggregate of the inbound and outbound local rates exceeds the through rates between the same points from 3.4 cents to 7.2 cents per 100 pounds.

In trunk line and western classification territories transit service is generally accorded on shipments of material for use in the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks, and the defendants are parties to many tariffs providing such service. In central freight association territory this fabrication-in-transit service is not accorded.

Competitors of the complainant are located at Pittsburgh and in the Pittsburgh rate district, where the fabrication-in-transit service which the complainant seeks is not accorded. It is said that these competitors purchase their unfabricated material from rolling mills at Pittsburgh, and therefore have no need of such transit service. Another of complainant's competitors is located at Dover, N. J., where the fabrication-in-transit service sought by complainant is permitted under a tariff to which the Erie Railroad Company is a party. A similar transit arrangement is also in effect at Bayonne, N. J. It was testified for complainant that its competitors are "primarily the bridge companies."

Unfabricated iron and steel articles used by complainant are identical with those used for fabrication into materials for iron and steel framework or sections of bridges or buildings. Complainant's fabricated material for use in the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks is in many cases identical with the fabricated material for use in bridges and buildings and interchangeable therewith. In all cases it is very similar. The fabrication at complainant's plant does not complete the towers, tanks, standpipes, steel riveted pipes, and smokestacks. Like bridges and buildings, they must be completed at the site of the proposed structure.

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Iron and steel articles for use in the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks are of necessity fabricated at mills far removed from the sites of such structures, and it is essentially inexpedient to set up at the destined sites the necessary machinery for fabrication. This is true also of structural iron and steel for use in bridges and buildings, and it is this "circumstance and condition of things which has warranted the extension of the privilege to this particular industry." *Middletown Car Co. v. P. R. R. Co.*, 32 I. C. C., 185, 186.

Apparently no distinction can be made between the circumstances and conditions surrounding the transportation of complainant's material and those surrounding the transportation of material for use in the iron and steel framework of bridges and buildings. This is true not only of those conditions directly affecting transportation but also of the commercial circumstances which bear upon the desirability of a fabrication-in-transit service. The only substantial difference between fabricated material for use in bridges and buildings and fabricated material for use in towers, tanks, standpipes, steel riveted pipes, and smokestacks is the use to which they are put, and it has long been held that rates can not be predicated upon the proposed use of the commodities transported. *Interstate Commerce Commission v. Baltimore & Ohio R. R.*, 225 U. S., 326.

Upon this record we do not find that the defendants' failure to accord fabrication-in-transit service on iron and steel articles shipped in carloads to Greenville, Pa., there fabricated into material for use in the construction of towers, tanks, standpipes, steel riveted pipes, and smokestacks and reshipped in carloads is unreasonable *per se*; but we do find that the failure to accord such service, while contemporaneously according it under tariffs to which defendants are parties on similar iron and steel articles fabricated at other points into like material for use in the construction of bridges and buildings, is and for the future will be unduly prejudicial to complainant and its traffic in violation of section 3 of the act to regulate commerce.

In view of our findings herein it is unnecessary to consider complainant's contention that it is subjected to unjust discrimination in violation of section 2. Complainant has shown no damage, and reparation is denied. An appropriate order will be entered.

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No. 9563.

GLOBE GRAIN & MILLING COMPANY

v.

LOS ANGELES & SALT LAKE RAILROAD COMPANY.

Submitted May 24, 1917. Decided October 1, 1917.

Collection of a charge of \$2.50 per car for switching 130 cars of wheat in Los Angeles, Cal., found to have been without tariff authority. Reparation awarded.

R. S. Sawyer and F. P. Gregson for complainant.

A. L. Halsted for defendant.

REPORT OF THE COMMISSION.

CLARK, Commissioner:

The sole question in this case is one of tariff interpretation. Between February 5, 1915, and April 4, 1916, complainant, a corporation engaged in the milling business at Los Angeles, Cal., shipped thereto 132 cars of wheat from points in Idaho and Utah on the Oregon Short Line Railroad, hereinafter referred to as the Short Line. The shipments moved via the Short Line to Salt Lake City, Utah, and thence via the Los Angeles & Salt Lake Railroad, hereinafter referred to as the defendant, to Los Angeles, where it was turned over to the Atchison, Topeka & Santa Fe Railway, hereinafter referred to as the Santa Fe, for delivery to complainant's mill. In addition to the line-haul charges, defendant collected a switching charge of \$2.50 per car. Complainant alleges that under the applicable tariffs this switching charge should have been absorbed and asks reparation.

Rates on grain from these points of origin to points in California on defendant's line and to certain points on the line of the Santa Fe are published by the Short Line in its I. C. C. No. 1914. This tariff provides that traffic destined to points on the Santa Fe shall be routed via defendant's line to San Bernardino or Los Angeles. Los Angeles was and is named in the tariff as a destination on defendant's line only; but prior to April 1, 1916, by virtue of the intermediate points rule in the tariff, the rates to Redondo Beach, Cal., the next more distant point on the Santa Fe to which rates were named, applied to Los Angeles as a destination on that line. As the rates named to Los Angeles and Redondo Beach were the same, it resulted that equal rates to Los Angeles were applicable via either defendant's

line direct or via defendant's line to San Bernardino and the Santa Fe beyond.

The tariff also provided that shipments thereunder were subject to the "terminal and other charges, privileges, and allowances" published in the tariffs of individual lines parties thereto. During the period of complainant's shipments, defendant's terminal tariff, I. C. C. No. 331, contained a rule to the effect that switching charges of connecting lines at Los Angeles would be absorbed on carload competitive traffic, "that is, traffic which, at time of shipment, may be handled at equal rates, exclusive of switching charge, from same point of origin to same point of destination via other carriers." As shipments to Los Angeles prior to April 1, 1916, could be routed via defendant's line to San Bernardino and the Santa Fe beyond at the same rates as via defendant's line direct, such traffic was competitive within the meaning of the absorption rule.

A witness for defendant stated that his company never intended, by permitting the routing of traffic destined to points on the Santa Fe beyond Los Angeles via the San Bernardino gateway, to open that gateway on traffic destined to Los Angeles, but the language of the tariff and not the intent of its author is controlling. In *Grain to California Points*, 38 I. C. C., 367, we approved the cancellation of routing via defendant's line to San Bernardino and the Santa Fe beyond on traffic to Los Angeles proper, effective April 1, 1916. Of the 132 cars shipped by complainant, 130 moved prior to that date.

We find that the switching charge of \$2.50 per car collected on the shipments which moved prior to April 1, 1916, was unlawful; that during the period from February 5, 1915, to, but not including, April 1, 1916, complainant shipped 130 cars of wheat over defendant's line to Los Angeles on which it paid and bore the charges herein found to have been unlawful; and that it is entitled to reparation in the sum of \$325, with interest. An order awarding reparation will be entered.

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INVESTIGATION AND SUSPENSION DOCKET No. 990.

WACO, TEX., SWITCHING.

Submitted May 24, 1917. Decided October 1, 1917.

Proposed elimination of two industries from list of industries on the Missouri, Kansas & Texas Railway of Texas within the switching limits of Waco, Tex., and the establishment at these points of prepay stations whereby increased charges would result on certain interstate shipments found not justified, and suspended schedules ordered to be canceled.

J. L. West for Missouri, Kansas & Texas Railway of Texas and its receiver.

H. D. Driscoll for protestants.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By schedules, filed to take effect December 30 and 31, 1916, and January 21, 1917, the Missouri, Kansas & Texas Railway of Texas, hereinafter called the respondent, proposed to eliminate the gravel and sand pits of the Potts-Moore Gravel Company and the White Rock Gravel & Sand Company from the list of industries on its line within the switching limits of Waco, Tex., and establish at those points prepay stations designated, respectively, Potsmore and Edwardson, Tex. If the proposed changes should become effective, they would result in increased charges on sand and gravel shipped from the pits to Waco proper and to destinations beyond; and on supplies, such as fuel and crossties, delivered at the pits. Upon protest by the companies above named and the Waco Chamber of Commerce, the schedules were suspended until October 29, 1917.

The White Rock Company's plant is located on respondent's line to Rotan, Tex., 4.78 miles north of that carrier's freight depot in Waco; that of the Potts-Moore Company on the same line, approximately 1 mile south of the White Rock Company's plant. The same rates have been maintained to and from these plants.

Effective January 1, 1918, the Railroad Commission of Texas issued an order, which is now in force, providing for a switching charge of \$3.50 per loaded car between the White Rock Company's plant and respondent's connection with other lines in Waco, and that all of such charge shall be absorbed by the carriers performing the line haul on competitive traffic and \$2.50 thereof on noncompetitive traffic, subject to the limitation that the net transportation charge shall not

be reduced below \$7.50 per car by such absorption, when the line haul is not performed by respondent. A similar order as to the Potts-Moore Company's plant became effective October 1, 1914. A switching charge of \$2.50 per car is applicable on interstate shipments between the gravel companies' plants and respondent's connections at Waco, except that to and from its connection with the St. Louis Southwestern Railway of Texas the switching charge is \$3.50 per car. These switching charges are absorbed by the line-haul carriers on competitive traffic. Under general rules governing switching charges in the state of Texas, established by the Texas railroad commission, a charge of \$5 per car is assessed on shipments delivered locally at Waco. Rates on sand and gravel from Waco are based on the distance scale prescribed in *Railroad Commission of Louisiana v. A. H. T. Ry. Co.*, 41 I. C. C., 83, 112, hereinafter called the *Shreveport Case*. These rates are uniformly 15 cents per net ton higher for two-line hauls than for one-line hauls for the same distances. If stations are established as proposed by the schedules under suspension, the charges on sand and gravel from those points to Waco proper would be increased from \$5 per carload to 23 cents per ton, the distance rate prescribed in the *Shreveport Case*, for distances of 10 miles or less over one line, or to approximately \$11.50 on the average carload shipped. If a shipment is destined to a point on respondent's line beyond Waco, the distance scale for a one-line haul would apply from the pits to the ultimate destination; if destined to a point on one of respondent's connections, the scale for two-line hauls would apply instead of the present basis of a switching charge from the pits to Waco plus the one-line rates beyond.

The gravel companies mentioned have never made any interstate shipments of gravel or sand. But they receive coal from points in Arkansas and Oklahoma and crossties from Soper, Okla. If the suspended schedules are permitted to become effective, specific rates on interstate shipments of coal and crossties to points on the Rotan line beyond Waco, higher than the rates at present in effect to the gravel companies' pits, would, by intermediate application, apply to Potsmore and Edwardson. Respondent offered no justification for such increased rates. It was stated that it was respondent's intention to extend to the proposed stations the Waco rates on such traffic.

For respondent it is asserted that transportation between the plants in question and Waco is a line haul and not a switching movement, and that the proposed change is necessary in order to comply with our order in the *Shreveport Case*, relative to the rates on sand and gravel between Shreveport, La., and points in Texas, and between points in Texas.

Considerable evidence was introduced with respect to the propriety of proposed changes which need not be discussed. Our jurisdiction over the intrastate rates arises only by reason of the undue prejudice against Shreveport found to exist in the *Shreveport Case*, due to the relationship between interstate rates and the intrastate rates in Texas. The distance scale of rates on sand and gravel prescribed in the *Shreveport Case* is published to apply on interstate shipments as well as on intrastate shipments in Texas, but, as above stated, the gravel companies make no interstate shipments and apparently are interested only in the effect which the proposed changes would have on the rates on their intrastate shipments of sand and gravel.

The question of whether our order in the *Shreveport Case* authorized action of the kind proposed by the respondent as to intrastate rates on sand and gravel from Waco and contiguous points now is being considered in connection with a rehearing which has been had in that case. The propriety of the proposed changes with respect to outbound shipments of sand and gravel, interstate or intrastate, will therefore be reserved for determination upon the more complete record in the case referred to.

In view of respondent's failure to justify the proposed increased rates on inbound interstate shipments of fuel and crossties, an order will be entered requiring the cancellation of the schedules under suspension.

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No. 9411.

WESTERN PINE MANUFACTURERS' ASSOCIATION ET AL.
v.
CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD
COMPANY ET AL.

Submitted June 19, 1917. Decided October 1, 1917.

1. The fact that through rates are composed of the aggregates of intermediate rates does not in itself establish their unreasonableness.
2. Rates on lumber and lumber products from the inland empire to central freight association territory not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial.
3. Minimum weights not shown to be unreasonable.

R. J. Knott and S. V. Carey for complainants.

Charles Donnelly, B. W. Scandrett, and H. E. Still for transcontinental lines.

Charles P. Stewart for central freight association lines.

H. A. Kimball for Great Northern Railway Company.

REPORT OF THE COMMISSION.

CLARK, Commissioner:

Complainants are the Western Pine Manufacturers' Association, a voluntary association of lumber manufacturers, and its members, who produce from 80 to 85 per cent of the lumber and lumber products manufactured in that section of the country, generally known as the inland empire, extending from the Cascade Mountains on the west to the Rocky Mountains on the east, and including the eastern portions of the states of Oregon and Washington, practically the entire state of Idaho, and western Montana. They allege that defendants' failure to maintain joint rates on lumber and lumber products, in carloads, from points of origin in the inland empire to destinations in central freight association territory results in through rates which are unreasonable, unjustly discriminatory, and unduly prejudicial; and also, that the minimum weights applicable on such shipments are unreasonable. Reasonable and nondiscriminatory joint rates based upon reasonable minimum weights, and reparation on several hundred carloads of lumber and lumber products are sought. Rates are stated in cents per 100 pounds.

Prior to 1907 rates from the inland empire to central freight association territory on classes and commodities were generally made by

combination on St. Paul, Minn. Since then joint class rates and joint rates on many commodities other than lumber and lumber products have been established. Until November 1, 1909, the through rates on lumber and lumber products were the lowest combinations of intermediate rates via the route of movement. On that date proportional rates were established to apply east of St. Paul, Chicago, and East St. Louis, Ill., and other basing points which equalized the through rates via the different gateways.

In the tariffs naming rates from the inland empire to eastern points lumber and lumber products are divided into four groups. The complaint attacks the rates on all of these groups, but the evidence relates almost entirely to the rates on fir, larch, pine, and spruce lumber, which are designated in the tariff as group D. This group also includes certain lumber products. Group D rates from Spokane, Wash., are 42 cents to St. Paul and 52 cents to East St. Louis and Chicago. The rates from Bend, Oreg., Cashmere, Klickitat, Leavenworth, North Yakima, and Republic, Wash., in the western portion of the inland empire, to central freight association territory are 1 cent higher than from Spokane. From Winchester, Idaho, located on the Craig Mountain Railway, a local rate of 3 cents to Craig Junction, Idaho, applies. Craig Junction and all points of production in the inland empire except those named are blanketed with Spokane.

The components of the through rates up to the gateways are commodity rates which were fixed by us in *Oregon & Washington Lumber Mfrs. Asso. v. U. P. R. R. Co.*, 14 I. C. C., 1; *Pacific Coast Lumber Mfrs. Asso. v. N. P. Ry. Co.*, 14 I. C. C., 23; and *Potlatch Lumber Co. v. N. P. Ry. Co.*, 14 I. C. C., 41. Complainants refer to the extension of the Chicago, Milwaukee & St. Paul Railway through the inland empire to the Pacific coast, and the acquisition of lines reaching Chicago by other systems serving the inland empire, since those cases were decided, but do not attack the reasonableness of the components west of the gateways as parts of the through rates.

Prior to October 26, 1914, the proportional rates on lumber from Chicago and East St. Louis were 9 cents to Detroit, Mich., and 13 cents to Pittsburgh, Pa., which are representative destinations in central freight association territory. Following *The Five Per Cent Case*, 31 I. C. C., 351, 32 I. C. C., 325, these proportional rates were increased to 9.5 cents and 13.7 cents, respectively, making the present through rates from Spokane to Detroit and Pittsburgh, 61.5 cents and 65.7 cents, respectively.

Complainants emphasize the need of an expanding market for their products. There are about 350,000,000,000 feet of standing timber in the inland empire, including that publicly and privately owned, and

the annual cutting has never exceeded 1,750,000,000 feet. Many of the mills in that territory have been carrying large holdings of stumpage, purchased for future supply. The carrying costs on the stumpage have materially increased, due to increased taxes and costs for fire protection. This has had a tendency to force the output of lumber in order to secure means to meet the increased expenses. An investigation of the lumber industry in this district covering the operations of about 35 mills during the period from 1909 to 1915, conducted by the United States government, showed the average earnings for that period to be 1.06 per cent on the capital invested. Complainants state that this was not sufficient to meet the interest on borrowed capital, and that, notwithstanding an increased production, the mills were operated at a loss. The industry has been more prosperous during the past two years.

Central freight association territory is a highly competitive lumber market and complainants must there meet the competition of lumber manufacturers located in Michigan, Minnesota, Wisconsin, and Canada and in the south and southeast, who are nearer to the eastern markets than complainants and enjoy materially lower rates to that territory. The evidence was directed almost entirely to the reasonableness of the through rates and no instances of unjust discrimination or undue prejudice were cited by complainants. Rates on lumber from Spokane and from representative competing points of production to Detroit and Pittsburgh, with the short-line distances and ton-mile earnings, are shown in the following table:

From—	To Detroit, Mich.			To Pittsburgh, Pa.		
	Miles.	Rates (cents).	Ton-mile earnings (mills).	Miles.	Rates (cents).	Ton-mile earnings (mills).
Spokane, Wash.....	2,155	61.5	5.7	2,352	65.7	5.58
Brookhaven, Miss.....	986	29.7	5.95	1,070	33	5.96
Hazelhurst, Miss.....	989	29.7	6	1,049	32	6.1
Alexandria, La.....	1,044	30.7	5.88	1,131	33.5	5.92
Winfield, La.....	1,018	30.7	6.03	1,105	33.5	6.06
Fordyce, Ark.....	869	30.7	7.06	966	33.5	7
Wausau, Wis.....	566	19.5	6.89	763	23.7	6.21

¹ Yellow pine.

Complainants' shipments to points east of Chicago, including trunk line territory, increased from 411 carloads in 1907 to 5,819 carloads in 1916. They attribute this increase in tonnage to the overproduction referred to, which has forced them into eastern markets regardless of profits. Idaho white pine predominated in these shipments, but in recent years there has been a decrease in the production of that species and an increased production of western white pine. The latter is neither as valuable nor as well able to

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meet the competition encountered in the eastern markets as is Idaho white pine, and for this reason complainants urge the necessity for establishing rates that will enable them to find a broader market for the cheaper grades of their lumber. The transportation charges on Idaho white pine, white fir, spruce, western white pine, and larch lumber produced in the inland empire and delivered at Detroit, are approximately 63 per cent, 92 per cent, 96 per cent, 103 per cent, and 176 per cent of the average value of the lumber at the mills in 1915. Since then there has been considerable advance in the prices of the lumber.

Complainants' mills supply less than 1 per cent of the estimated amount of lumber consumed in the states of Michigan, Ohio, and Indiana, while they supply 8.44 per cent in Minnesota, 21.06 per cent in North Dakota, and 82.2 per cent in Montana. There is, however, nothing abnormal in this showing, as it is natural that the distribution and consumption of complainants' products should be greater in the states where it is produced and in adjacent states than in more remote markets having nearer sources of supply.

It is not our province to equalize commercial or economic conditions, or to make rate adjustments, which will offset the natural advantages or disadvantages of one producing territory as compared with another. *Interstate Com. Comm. v. Diffenbaugh*, 222 U. S., 42, 46.

One basis of complaint is that while the class rates and rates on other commodities from the inland empire to central freight association territory have been reduced since 1907, the rates on lumber, a commodity which loads heavily, moves regularly throughout the year, requires no special equipment or service and occasions relatively few claims for loss or damage in transit, have been increased. The present class E rates of 83 cents and 86 cents from Spokane to Detroit and Pittsburgh, respectively, are 25 cents and 27 cents less than the aggregates of the class E rates to Chicago and the sixth-class rates beyond which were in effect in 1907 from and to those points. During the same period the rate on lumber from Spokane to Detroit has increased 1.5 cents, and from Spokane to Pittsburgh 7 cents. The rate on lumber from Spokane to Chicago, which was approximately 51 per cent of the corresponding class E rate in 1907, is now 65 per cent of the class E rate; and is 9.5 cents higher to Detroit, and 13.7 cents higher to Pittsburgh, than to Chicago, although the class E rate is only 3 cents higher to Detroit, and 6 cents higher to Pittsburgh than to Chicago. Complainants argue that it is unreasonable to increase the charges for the transportation of lumber east of Chicago more, relatively, than the charges on other commodities. Lumber in carloads is not classified in the western classification. In western classification territory there is no fixed relation

between the rates on lumber and any of the class rates, and as a satisfactory basis for the comparisons submitted by complainants has not been established, they are not convincing.

Reference is made to the fact that the proportional rates used east of the gateways as the components of the through rates yield ton-mile earnings which are relatively higher than those based on certain differentials fixed by us in the *Potlatch Case*, *supra*. But it is the reasonableness and lawfulness of the through rates that must be considered. In the *Interior Iowa Cities Case*, 28 I. C. C., 64, 73, we said:

A shipper has no legal grievance with respect to his through traffic unless compelled to pay excessive charges for the through service. If the through charges are lawful in the sense that they are reasonable charges for the through service, a shipper can not predicate unlawfulness of one of the component parts of the through charges by alleging that it is excessive compensation to that carrier for that part of the through service. He pays for the completed service, and it is no concern of his how the through charges are divided among the carriers, whether by agreement or by published proportionals, so long as the through charges for the through carriage are reasonable.

Defendants point out that the through rates assailed are composed of commodity rates west of the gateways, which we found to be reasonable in the *Potlatch Case*, *supra*, and proportional rates east of the gateways, which are below the normal basis in that territory. The proportions of the rates accruing to the lines in central freight association territory were increased 5 per cent, as above stated, but the rates on lumber from all producing territories to central freight association territory were also similarly increased.

Operating expenses, defendants assert, have materially increased since the establishment of the present through rates. The Northern Pacific Railway estimates that its operating expenses for the current year will exceed those of the previous year by almost \$12,600,000, but it offered no estimate as to its operating revenues for the same period. The central freight association lines also urge the increased cost of operation. Statements as to increases in operating expenses are inconclusive without a showing as to their bearing on the net revenues.

The only rates cited from the inland empire to central freight association territory which are lower than the rates on lumber are those on grain, but the average loading of grain is considerably heavier than that of lumber shipped from the inland empire. The rates on grain are not joint rates. Defendants offered no clear and definite explanation as to why joint rates are not maintained on lumber. They assert that some of the joint commodity rates were established from western points of production to eastern destinations on account of water competition in the coast-to-coast rates, and were blanketed over central freight association territory. Rates on fruit were blanketed east of the Missouri River to the Atlantic seaboard by the Cali-

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ifornia lines before the production and shipment of fruit reached important proportions in the inland empire, and this practice was followed by the northern lines when they established joint rates on fruit from that territory to the east.

The defendants have no objection to the establishment of joint rates via their lines provided their present revenues are not thereby reduced. The mere fact that through rates are composed of the aggregates of intermediate rates is not sufficient to condemn them, without proof that such an adjustment results in through rates which are unreasonable or otherwise in violation of the law. *Appalachia Lumber Co. v. L. & N. R. R. Co.*, 25 I. C. C., 193; *Southeastern Lumber*, 42 I. C. C., 548, 558; *Connor Lumber & Land Co. v. G. N. Ry. Co.*, 43 I. C. C., 243.

We find that the through rates assailed are not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial.

MINIMUM WEIGHTS.

From the inland empire up to the gateways the minimum weights on lumber shipped in closed cars are graduated from 31,000 pounds to 60,000 pounds according to the cubical capacity of the car, based on 20 pounds per cubic foot. When the car is loaded to full visible capacity actual weights govern, except that flat minima are provided of 30,000 pounds for cars under 36 feet in length, and 40,000 pounds for cars 36 feet and over in length, on fir, larch, or spruce lumber, and somewhat lower minima on pine lumber. The marked capacity of the car governs when it is less than the minimum weight. Actual weights apply when the lumber is loaded on open cars in accordance with the tariff rules; otherwise open car minima are graduated according to the marked capacity of the car. Complainants make no objection to the rules governing the minima on open cars and the evidence and our discussion herein has reference to the minima on closed cars west of the gateways. The minima applicable on lumber in central freight association territory are 30,000 pounds for cars less than 36 feet in length, and 34,000 pounds for cars 36 feet and over in length.

Complainants suggest a reduction in the basis of computing the minima to 16 pounds per cubic foot, and that the same minimum weight be applied for the entire haul. The suggestion of 16 pounds per cubic foot is based upon the lightest of a number of carloads of lumber considered by complainants in making their estimate of a satisfactory basis. They state, however, that the loading of other cars was as high as 30 pounds per cubic foot. The present scale of minimum weights, according to complainant's evidence, results in the shippers' disadvantage once in about 400 shipments.

The present basis of minimum weights was in force when we considered the rate adjustment on lumber from the inland empire in the 46 I. C. C.

Potlatch Case, supra. It was established in 1906 after a conference between the carriers and the shippers of lumber, including complainants. The carriers proposed minima based on 22.5 pounds per cubic foot, which was opposed by the shippers. As a result of the conference referred to, minimum weights were established on the present basis of 20 pounds per cubic foot, and the rule which provides that the actual weight shall govern when the car is loaded to its full visible capacity was incorporated in the tariff. During August, 1906, the first month the new minima were in effect, the loading of cars of 1,500 to 2,000 cubic feet capacity, shipped via the Northern Pacific from the inland empire, showed an average increase of 2,056 pounds per car over the loading of the same sized cars in August, 1905, and the average loading of cars of 2,500 to 3,000 cubic feet capacity increased 7,804 pounds per car. During the months of December, 1915, and January, 1916, the Northern Pacific furnished 142 cars of 2,990 cubic feet capacity, minimum weight 60,000 pounds, to shippers in the inland empire. The average loading of these cars was 55,790 pounds. However, 68 of the cars were furnished on orders for smaller cars, and 34 were loaded to full visible capacity but weighed less than the tariff minimum. Defendants assert that the shippers were not required to pay for space not loaded on any of these cars. Practically the only change shown in conditions affecting the loading of lumber since the establishment of the present minima is that western white pine lumber, which is one of the heaviest kinds produced in the inland empire, now forms a larger percentage of the total than when the minimum weights were established.

We find that the minimum weights are not shown to be unreasonable.

An order will be entered dismissing the complaint.

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CENTRAL RAILROAD COMPANY OF NEW JERSEY.

Submitted June 18, 1917. Decided October 1, 1917.

Upon complaint that defendant's demurrage rules applicable at Elizabethport, N. J., on coal in carloads for transshipment by vessel are unreasonable; *Held*, That, following *Peale, Peacock & Kerr v. C. R. R. of N. J.*, 18 I. C. C., 25; *Plymouth Coal Co. v. D., L. & W. R. R. Co.*, 36 I. C. C., 76; and *Red Ash Coal Co. v. C. R. R. of N. J.*, 37 I. C. C., 460, the regulations are reasonable. Complaint dismissed.

George W. Jackson for complainant.

Jackson E. Reynolds and *Charles E. Miller* for defendant.

The following is the report proposed by the examiner:

Complainant, trading as Meeker & Company, has his office in New York, N. Y., and deals in coal consigned to tidewater at Elizabethport, N. J., for transshipment thence by vessel. This complaint questions the reasonableness of defendant's demurrage rules as applied to tidewater coal. It is specifically directed (1) to the absence of a rule therein requiring the carrier to notify consignees of the arrival of cars loaded with coal for transshipment by vessel; (2) to the failure to provide that where such cars are not released in the order of arrival the carrier will be held in fault and an allowance made in demurrage charges; and (3) to the lack of a rule relating to cars when a part of the contents are loaded into a vessel and the remainder at a later date into another vessel. Reparation is demanded.

Coal consigned to tidewater points for transshipment by vessel moves to defendant's terminals at Elizabethport on rates which include the service by the carrier of loading the coal into the vessel. At the port demurrage on all such shipments is computed upon the average plan; which allows, free of charge, an average detention of five days per car. The tariff here attacked was made effective November 14, 1911, in conformity with the findings of the Commission in the case of *Peale, Peacock & Kerr v. C. R. R. Co. of N. J.*, 18 I. C. C., 25. No provision is made in the tariff for sending notice of arrival of cars. The record, however, is clear that complainant actually receives notice twice daily of the arrival of all cars, a messenger representing himself and other coal dealers making two trips each day for that purpose.

The tariff provides:

4. For the purpose of computation of demurrage, the record of detention of a car shall begin with the 7 a. m. of the day following its actual date of arrival, and shall close with the 12 p. m. of the day of its release.

* * * * *

7. The demurrage due from any shipper or consignee shall be determined by adding together the days of detention of all the cars released by such shipper or consignee in any one month, and from that sum shall be deducted the product of such number of

cars multiplied by 5, the remainder, if any, being the detention days to be charged at the rate of \$1 per car per day.

8. Statements and bills for demurrage shall be made for each calendar month and shall include the cars released during that month.

The record shows no failure on the part of defendant actually to notify complainant of the arrival of cars morning and afternoon, and complainant admits that he has no claim for reparation so far as notice is concerned. He insists, however, that notice should be sent by mail. The record before us shows no necessity for such a notification. It may be that in other circumstances than those here shown it would be unreasonable not to provide for notification by mail. In this case, however, complainant's own witnesses testify that detailed information is received twice each day, and on the facts before us we see no reason to order the defendant to change its tariff in this respect.

Complainant claims that the demurrage rules of defendant are also unreasonable because they do not provide that where cars are not unloaded in the order of their arrival the unloading of a car received at a later date shall be construed to be the release of a car received at an earlier date. Stated in other words, complainant contends that where there are a number of cars on hand at tidewater they should be unloaded in the order of their arrival, or in lieu thereof the unloading of later arrived cars should be construed as the release of earlier cars.

This contention amounts to an attack on rules 7 and 8, which provide for statements of the detention of cars released month by month. For, under the plan suggested, even though the statements might still be rendered monthly they would confuse cars released with cars not actually released; would apply to cars on which free time has ceased to run, the free time still remaining on cars actually released; and, all cars here considered being under the average agreement, there would be a partial or complete duplication of the free time allowance. Complainant calls his theory "substitution of tonnage." The term is inaccurate, for what he proposes is substitution of detention. Substitution of detention has been amply provided for in every instance where the average agreement is in effect; indeed the very object of the average rule is to permit the handling of cars without regard to the exact order of arrival; and the rules provide for the application of the maximum free time to each car released. In *Peale, Peacock & Kerr v. C. R. R. of N. J.*, *supra*, we held that it would be unreasonable to extend to one year the period on which average demurrage will be computed; nevertheless complainant here seeks to extend substitution of detention to two years and more in the past. The rule now in effect seems to be liberal enough.

At Elizabethport defendant's tracks hold, subject to orders from consignees, many cars loaded with coal. Consignees may order vessels loaded by specifying particular cars to be dumped therein, and there is no charge for switching in such case, but the usual practice is for consignee to order a given number of tons of a certain size and kind of coal placed in the boat. Defendant ordinarily

loads vessels at Elizabethport with coal consigned to complainant not from specifically designated cars but from any cars containing the quality and size of coal desired. In other words, complainant issues instructions to defendant to load vessel A with so many tons of a certain kind and grade of coal and to load vessel B with so many tons of another kind and grade of coal. Complainant does not ordinarily give orders that cars M, N, and O shall be loaded into vessel A and cars X, Y, and Z into vessel B. The result is that defendant takes the cars most conveniently located on its tracks containing the requisite kind and grade of coal and loads the proper number of tons into the vessel. Thereupon complainant is notified that certain cars have been emptied and released. At the end of each month demurrage bills are presented in accordance with rule 7.

It is to be observed that complainant's whole contention is based upon an unstated premise, to wit, that he is entitled to store coal at Elizabethport in the equipment of the defendant in sufficient quantities to serve the needs of his business. Undoubtedly his business does require that he should have more coal constantly on hand during the winter months than can be loaded in the boats available. This commercial necessity, however, does not give him the unrestricted right to the use and occupation of defendant's equipment for storage purposes. At any time during the two-year period defendant could have unloaded all the coal belonging to complainant and demurrage thereon would at once have ceased.

Complainant's contentions with respect to split cars are not essentially different from his contentions with respect to substitution of detention. An example of a split car is this: Complainant orders 100 tons of coal of a certain grade to be loaded into boat C. Defendant unloads two 40-ton cars and takes 20 tons from another car holding 40 tons. This leaves in the last car 20 tons of coal of a particular kind. Complainant claims that this split car should be unloaded into the first boat into which coal of a similar kind is ordered. No showing is made that certain boats could have received the coal remaining in this split car without splitting the load of another car, nor does complainant offer any excuse for not ordering the unloading of this remaining part carload by car initials and number. Clearly complainant has some duties to himself and to the carrier and can not be heard to lay all responsibilities for the handling of his shipments upon the defendant.

Complainant claims that because the tariffs of certain other carriers appear to approximate his desire for the partial or complete extinction of demurrage charges, it therefore follows the defendant's rules are unreasonable. This contention is not sound. The greater number of carriers handling tidewater coal at New York harbor have tariffs which do not provide for complainant's substitution of detention. Defendant insists that the rules in question are not published in order to establish a reasonable charge for car detention, but that these rules aim at speedy car release. Obviously, complainant believes that

he is entitled not only to the benefits of the average rule and to the five days' free time allowance, but also to an application of all unexpired free time in reduction of detentions. We think that five days per car free time, as provided in this tariff, is ample. The case cited above holds that—

The primary duty of a carrier is to afford carriage or transportation. As a part of such transportation it is its duty to grant the shipper, after the actual movement has ceased, sufficient time to remove the lading from the car. But in respect to tidewater coal, the rate includes dumping the coal into the hold of the vessel, and the shipper does not perform the unloading. It is not the duty of a carrier to furnish storage beyond the reasonable time necessary to unload.

* * * * *

It is undoubtedly the right of defendant to establish and maintain demurrage regulations under which a reasonable charge will accrue for detention of cars beyond a reasonable period. We may even go further: An obligation rests upon defendant to so conduct its business that all of its patrons shall be accorded, without discrimination to any, the fullest and freest use of its equipment and facilities, and if coercive measures become necessary to accomplish that end they will be viewed with favor so long as they are reasonable and subject none to undue prejudice or disadvantage.

A part of the report quoted above was repeated in *Plymouth Coal Co. v. D., L. & W. R. R. Co.*, 36 I. C. C., 76. In the case of the *Red Ash Coal Co. v. C. R. R. Co. of N. J.*, 37 I. C. C., 460, this same tariff was in issue. There the computation at the end of each calendar month was attacked, and we found defendant's tariff rules to be reasonable.

We see no merit in the attack brought against these demurrage rules, and we are confirmed in the belief that our analysis of complainant's contentions is correct by the shifting amounts of reparation claimed by him. The complaint as filed asked reparation in the sum of \$1,399. This amount was reduced during the course of the trial until the complainant now claims a total of \$261. It is apparent from the record that the amount of the claim depends upon the date from which computation is made. Nothing shown here is persuasive that the rule providing for the computation of demurrage charges from month to month is unreasonable. The complaint should be dismissed.

REPORT OF THE COMMISSION.

HALL, Chairman:

The foregoing proposed report of the examiner was filed in the record and copies sent to counsel by registered mail on May 29, 1917. The rules of procedure under which this case was heard and conducted provide, among other things, that—

Within 20 days after the mailing of the proposed report any party may file and serve, as prescribed for briefs in rule XIV of the Rules of Practice, exceptions to the examiner's proposed report and brief in support of the exceptions.

Neither party filed exceptions.

The questions presented have been before us in a number of cases, some of which are cited in the examiner's proposed report. Upon consideration of the record, we approve and adopt that report as the report of the Commission. The complaint will be dismissed.

No. 9328.
LAKE CHARLES RICE MILLING COMPANY OF
LOUISIANA
v.
SOUTHERN PACIFIC COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATIONS Nos.
378, 461, 607, 793, 1481, 1771, 3480, 4483, AND 4644.

Submitted June 11, 1917. Decided October 1, 1917.

1. Rates on rough rice from California points to Lake Charles, La., and on clean rice from Lake Charles to trunk line and Atlantic seaboard points not shown to be unreasonable or unduly preferential or prejudicial.
2. Charges on certain shipments which exceeded those that would have accrued on the basis of the aggregates of the intermediate rates found unreasonable and reparation awarded.
3. Fourth section relief denied.

A. Pace for complainant.

C. W. Owen; Denegre, Leovy & Chaffe; and Fred H. Wood for Southern Pacific Company, Morgan's Louisiana & Texas Railroad & Steamship Company, and others.

W. H. Thornton for Texas & New Orleans Railroad Company and Galveston, Harrisburg & San Antonio Railway Company.

F. R. Dalzell and T. J. Norton for Gulf, Colorado & Santa Fe Railway Company and Atchison, Topeka & Santa Fe Railway Company.

H. S. L'Hommedieu for Orange rice mills.

Chas. A. Bland for Beaumont Chamber of Commerce, Beaumont Rice Mills, Atlantic Rice Mills, McFadden Rice Milling Company, and Tyrell Rice Milling Company.

REPORT OF THE COMMISSION.

CLARK, Commissioner:

In this proceeding the carload rates on rough rice from California points to Lake Charles, La., and on clean rice from Lake Charles to various points in the states of New York, Maryland, Vermont, Massachusetts, New Hampshire, Maine, Rhode Island, and Pennsylvania are assailed as unreasonable, unjustly discriminatory, unduly prejudicial, and in excess of the aggregates of the intermediate rates. Complainant, a corporation, operates a rice-cleaning mill at Lake Charles,

and asks reparation on numerous shipments which moved under the rates attacked within two years prior to the filing of complaint. In behalf of rice millers of Houston, Orange, and Beaumont, Tex., who are alleged to be unduly preferred by the present rate adjustment, interventions were filed by the Houston Chamber of Commerce, the Orange Board of Trade, and the Beaumont Chamber of Commerce. Portions of Fourth Section Applications Nos. 378, 461, 607, 793, 1481, 1771, 3480, 4483, and 4644, by which authority is sought to continue the maintenance of through rates on rice from Lake Charles to destinations named in the complaint which exceed the aggregates of the intermediate rates were heard with the complaint. Rates are stated in cents per 100 pounds.

RATES ON ROUGH RICE FROM CALIFORNIA.

During the period of complainant's shipments from California, joint rates of 60 cents to Lake Charles and 50 cents to Orange, Beaumont, and other Texas points, minimum 40,000 pounds, were in effect. The sum of the intermediate rates contemporaneously applicable to Lake Charles via the lines of the Southern Pacific system was 57.5 cents, based on 50 cents to Echo, Tex., and 7.5 cents beyond. Under authority of a tariff rule providing for the application of the aggregate of the intermediate rates if lower than the joint rate, the 57.5-cent rate was collected on the shipments which moved via the lines of the Southern Pacific system. Complainant paid and bore charges on the remaining shipments, which originated on the Southern Pacific and the Santa Fe and which moved in part over other lines at the joint rate of 60 cents. The tariff containing these rates from California did not restrict the routing east of the western gateways, El Paso, Tex., Ogden, Utah, Albuquerque, Deming, and Belen, N. Mex. Therefore, in the absence of a joint rate, the combination rate of 57.5 cents based on Echo would have been available on the shipments which moved in part over lines other than those of the Southern Pacific. By tariffs effective April 5 and 9, 1917, the rates on rough and clean rice to Houston, Galveston, Beaumont, and Orange, Tex., and to Lake Charles and New Orleans, La., were made 60 cents for a minimum of 40,000 pounds and 55 cents for a minimum of 60,000 pounds, thereby removing the alleged undue preferences in favor of Beaumont and Orange.

To prove that the present rates to Lake Charles are unreasonable, complainant calls attention to evidence offered by respondents in *Rates on Asphaltum, Barley, Beans, and Canned Goods*, 33 I. C. C., 480, 484, tending to show that the average out of pocket cost of transporting these commodities from San Francisco, Cal., to Galveston during the two years ended June 30, 1914, was \$4.88 per net

ton. Complainant contends that rice is analogous to barley and that in view of the carrier's evidence as to the cost of service, the rate on rough rice to Lake Charles should not exceed 40 cents. The present rate on barley from California to Lake Charles is 62.5 cents. In *Rice from California*, 42 I. C. C., 437, the carriers proposed to increase from 50 cents to 60 cents the rates to the Missouri River and intermediate territory, including points in the states of Colorado, New Mexico, and Texas, the distance to Denver, Colo., for example, being 1,359 miles and to Kansas City, Mo., 1,946 miles. In that case we said:

In *Colorado Manufacturers' Asso. v. A., T. & S. F. Ry. Co.*, 29 I. C. C., 544, we fixed a rate of 58 cents on rice from Chicago to Denver, the distance being 1,018 miles, and the revenue yield per ton-mile 11.39 mills; and in *Class and Commodity Rates to Salt Lake City*, 32 I. C. C., 551, a rate of 60 cents was approved from the Mississippi River to Salt Lake City, the distance being 1,450 miles, and the revenue per ton-mile being 8.27 mills. When compared with these adjustments the rate of 60 cents here under consideration is not too high, nor is it unduly preferential of the southern shippers to the prejudice and disadvantage of the California shippers.

The average distance from California points to Lake Charles is stated by complainant to be 2,246 miles, and from San Francisco to Lake Charles, via the Southern Pacific system, 2,269 miles. This record does not establish that the present rates to Lake Charles which, as stated, are the same as those to Beaumont and Orange, are or for the future will be unreasonable or otherwise in violation of the act. It is unnecessary to consider the allegations of unjust discrimination and undue preference arising from the former rates, as it is not shown that complainant was damaged thereby. We find, however, that the joint rate of 60 cents collected on certain of complainant's shipments was unreasonable because it exceeded the combination rate of 57.5 cents contemporaneously in effect; that complainant has been damaged to the extent of the difference between the charges paid and the charges that would have accrued at the rate of 57.5 cents; and that it is entitled to reparation, with interest.

RATES ON CLEAN RICE FROM LAKE CHARLES.

The rail-and-water rates on clean rice to New York, N. Y., which may be taken as typical of the general situation, are 33 cents from Beaumont and Orange and 35 cents from Lake Charles. These rates, which are 5 cents per 100 pounds higher than those formerly in effect, were but recently found justified in *Rice from Texas and Louisiana*, 40 I. C. C., 285; 43 I. C. C., 29. The complaint does not put in issue the all-rail rates and complainant has made no shipments via the all-rail routes.

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Complainant's evidence, in so far as it is relevant to the issues, deals principally with comparisons of the rates from Lake Charles to Atlantic seaboard points with those from the Pacific coast, Memphis, and New Orleans to the same destinations, and with the contention that the cost of service shown in *Rates on Asphaltum, Barley, Beans, and Conned Goods, supra*, should be used as a standard by which to measure the reasonableness of the rates assailed. Beaumont and Orange, the two points alleged to have unduly preferential rates, are both located on waterways connected with the Gulf of Mexico, and are nearer to the Gulf than is Lake Charles. Considering the dissimilarity of circumstances and conditions, we find that the lower rates on clean rice from these points than from Lake Charles are not shown to result in undue prejudice or unreasonable disadvantage. We further find that the rates attacked are not shown to be unreasonable except in instances in which they exceed or exceeded the aggregates of the intermediate rates subject to the act. As to such rates, we find them to have been and to be unreasonable to the extent to which they exceeded and exceed the aggregate of the intermediate rates contemporaneously in effect.

We further find that complainant made shipments of clean rice from Lake Charles to said destinations, and paid and bore charges thereon which were unreasonable; that it has been damaged to the extent to which such charges exceeded those which would have accrued on the basis of the aggregates of the intermediate rates contemporaneously in effect; and that it is entitled to reparation, with interest. The exact amount of reparation due can not be determined upon the present record. Complainant should prepare a statement showing the details of the shipments upon which reparation is due of rough rice from California and of clean rice from Lake Charles in accordance with rule V of the Rules of Practice, which statement should be submitted to the interested defendants for verification. Upon receipt of a statement so prepared and verified we shall consider the entry of an order awarding reparation.

Defendants offered no substantial justification in support of their applications for relief from the aggregate of the intermediate rates rule of the fourth section, and the applications accordingly will be denied to the extent that they are here involved.

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No. 7583.¹

HULME & HART

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY.

Submitted November 2, 1916. Decided October 1, 1917.

Following *Boardman Co. v. S. P. Co.*, 37 I. C. C. 81, reparation denied on account of charges collected by defendants for switching interstate carload traffic to and from industries located upon spurs and sidetracks within the switching limits of San Francisco and Los Angeles, Cal., and other points. Complaints dismissed.

Seth Mann, W. D. Wall, Charles Clifford, L. A. Bailey, Charles Birchler, J. J. Clifford, Albert Leisure, J. G. Melvins, J. W. Chapman, Fred P. Gregson, John J. Seid, A. F. Nordquist, A. M. Norton, J. D. Rearden, A. R. Mraz, Fred L. Gibson, James E. Helpling, George N. Southwick, and J. D. Keller for complainants.

C. W. Durbrow, Geo. D. Squires, E. W. Camp, A. S. Halsted, Allan P. Matthew, F. B. Austin, and Fred H. Wood for defendants.

REPORT OF THE COMMISSION.

HALL, *Chairman*:

In these cases, which have been consolidated, complainants seek reparation on account of charges collected by defendants prior to August 12, 1914, for switching interstate carload shipments to and from industries located upon spurs and sidetracks within the switching limits of San Francisco and Los Angeles, Cal., and other points.

The cases are sequels to the so-called *Pacific Coast Switching Cases*, 18 I. C. C., 310 and 333, decided April 5 and 11, 1910, where we found that a charge of \$2.50 per car for delivering or receiving interstate carload shipments on industrial spurs or sidetracks within the switching limits of San Francisco or Los Angeles, when that service was incidental to a system line haul, was unlawful. A similar charge in conjunction with a foreign line haul was found not to be unlawful. The effective date of our order was extended from time to time and on July 20, 1911, the Commerce Court set the order aside. In the *Los Angeles Switching Case*, 234 U. S., 294, and *Interstate Commerce Commission v. S. P. Co.*, 234 U. S., 315, decided June 8, 1914, the Supreme Court reversed the Commerce Court and sustained our order. The charges imposed at San Francisco and Los Angeles were canceled on August 12, 1914, and at other points on April 1, 1915.

¹ The report also embraces No. 7583, with Sub-Nos. 1 to 29, inclusive; 7206, with Sub-Nos. 1 to 8, inclusive; and No. 7597, with Sub-Nos. 1 to 25, inclusive.

Charges collected at these other points between August 12, 1914, and April 1, 1915, have been refunded with our approval.

Similar claims for reparation were denied by us in *Boardman Co. v. S. P. Co.*, 37 I. C. C., 81, and it follows that these claims must also be denied unless our conclusions in that case were erroneous. The present record consists almost exclusively of excerpts from the record in the *Boardman Case*, complainants offering little additional evidence.

We are not convinced upon this record that our conclusions in the *Boardman Case* were erroneous, and the complaints will be dismissed.

No. 9284.¹

NEW YORK PRODUCE EXCHANGE

v.

BALTIMORE & OHIO RAILROAD COMPANY ET AL.

Submitted April 7, 1917. Decided October 1, 1917.

1. Reconsignment charge of \$2 per car established as an incentive to the direct billing of carload freight to places of final delivery within New York lighterage limits, and having for its object the relief of the congestion and car shortage situation at New York, found justified.
2. Rule that a shipper from an interior point in the United States must, as a condition precedent to the issuance of a through export bill of lading, guarantee the payment of such storage charges as may accrue at New York after the expiration of free time, found justified.
3. Rule that carload freight moved to New York as domestic traffic and subsequently exported can not be accorded the benefit of the more liberal storage charges and regulations applicable to export traffic, which rule was designed to prevent the circumvention of embargoes against the movement of freight to New York before ship space is secured, found justified.

Neil P. Cullom, Arthur W. Rinke, and Charles J. Austin for complainant.

Charles R. Webber for Baltimore & Ohio Railroad Company.

De Voe Tomlinson for Central Railroad Company of New Jersey.

M. B. Pierce for Erie Railroad Company.

R. W. Barrett for Lehigh Valley Railroad Company.

John M. Sternhagen for New York Central Railroad Company.

Frederic L. Ballard for Pennsylvania Railroad Company.

Douglas Swift for Delaware, Lackawanna & Western Railroad Company.

¹ This report also embraces No. 9247, Same v. Baltimore & Ohio Railroad Company et al.; No. 9275, Same v. Baltimore & Ohio Railroad Company et al.; and No. 9317, Same v. Baltimore & Ohio Railroad Company et al.

REPORT OF THE COMMISSION.

CLARK, Commissioner:

These complaints were filed on behalf of the flour brokers at New York City. They attack the propriety and the legality of certain terminal charges, rules, and regulations which have been in effect at New York since the spring of 1916, and which grew out of the car shortage situation and the freight congestion at that point.

NO. 9284.

Carload traffic of practically all kinds destined to New York City may be forwarded on direct billing through to any of the recognized places of delivery in that city or it may be billed generally or indefinitely to "New York, lighterage free," or to "New York, floatage free," on open billing, and specific instructions for delivery given after shipment has left point of origin and generally after its arrival at holding points near New York. The shipments are regarded as in transit until final delivery is accomplished. Most of the holding points are on the New Jersey shore. The terminal of the New York Central Railroad used for this purpose is at Sixtieth street, New York, and that of the Baltimore & Ohio Railroad is on Staten Island. The case deals principally with the terminals on the New Jersey shore, and the others will not be referred to again in this report. For many years the flat New York rate was applied whether the shipments moved on direct or on open billing, but the carriers' tariffs now provide a reconsignment charge of \$2 per car when domestic shipments are moved on open billing and when instructions for disposition are not given before the arrival of the car at the holding point. Complainant contends that no such charge should be made. Its specific contentions will be mentioned presently.

The practice of permitting the consignee to give his instructions for final delivery after the car has arrived at the holding point sometimes entails switching and other services which would not be necessary if the shipment were billed direct to the place of final delivery, but the charge is not primarily designed to compensate the carriers for these services. Defendants' main purpose in imposing it was to discourage open billing, and thereby to secure the prompt release of cars and relieve congestion.

There is evidence tending to show that the publication of the charge has had the desired effect. In November, 1915, 1,358 cars of freight of various kinds arrived via the Pennsylvania Railroad on open billing, while in that month of 1916 the number was only 435. In November, 1915, only 473 cars arrived on direct billing and in the same month of 1916 there were 755 such cars. The other lines

do not all make as favorable a showing as does the Pennsylvania Railroad, but upon the whole, there was an improvement in 1916 over 1915.

What we have said above applies to traffic generally. The question in which complainant is particularly interested, however, is whether flour should be treated the same as other traffic. Complainant attacks the charge on the grounds that as applied to flour it does not accomplish the intended purpose; that it is a penal regulation which was not designed to and which does not, in so far as flour is concerned, represent any service performed in connection with shipments moving on open billing that is not covered by the through rate to the place of final delivery within the lighterage limits; and also on the ground that as a penal regulation it is "incapable of fair and even application" since it applies on domestic and not on export traffic.

All flour which arrives at the New Jersey piers, except the small amount which is floated, that is, transferred in cars to the place of final delivery, must be unloaded on those piers and be lightered therefrom. This is so whether it is billed as domestic or as export, and whether it is received on direct or on open billing. If it is received on direct billing it is, of course, loaded upon a lighter as soon as circumstances will permit and sent to the destination specified. Most of the flour, however, is received on open billing and after being unloaded at the warehouses on the piers is inspected and ordered by the consignees to the various points of delivery within the New York lighterage limits. This method of handling flour has been in vogue for many years. Apparently there is no disposition on the part of the carriers to interfere with it or to place any unnecessary burden upon the flour business. They merely desire that the largest possible proportion of the traffic in all commodities be moved on direct billing.

Complainant seeks to prove that so far as flour is concerned direct billing can not be availed of to any greater extent than in the past. The exigencies of the flour business at New York require that inspection be made at the New Jersey piers and that the results of the inspection be known in New York before the flour is ordered to points within the lighterage limits. Messengers with samples or with the necessary information as to the quality and condition of the flour are dispatched twice daily from the New Jersey piers to the New York Produce Exchange. The New York brokers have no facilities for the receipt and storage of flour and if they are to do business as in the past the handling of this commodity on open billing is necessary. They take the position that since the carriers have not facilities at their New York piers for the handling of flour in

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accordance with the needs of the flour business no penalty should be assessed for open billing. The \$2 charge apparently has not caused an appreciably greater movement of flour on direct billing.

Complainant says that the direct billing of flour would not affect the physical situation at New York, for the reason that the consignees do not hold the flour in cars at the New Jersey piers or yards but desire it unloaded as soon as it arrives. If it is not ordered to a New York pier or to a ship for export within the free time allowed, it is stored by the carriers at consignee's expense. The handling of flour on open billing, therefore, is said not to contribute to car shortage or to the congestion of yards. Except in possible rare or unusual cases it does not require additional switching as all or practically all of the flour goes to the same New Jersey piers for unloading, whether it arrives on direct or open billing. Apparently the handling of flour on open billing in some cases occasions extra services on the piers and in some cases does not. Witnesses for complainant and for the New York Central lines testified that the service involved in getting the flour from the car to the lighter was the same whether it is received on direct or on open billing. The witness for the Pennsylvania Railroad testified that he knew of no difference. The testimony of the witness for the Delaware, Lackawanna & Western Railroad indicates that if the flour is received on direct billing and handled without the inspection desired by the flour brokers his company can transfer it direct from car to lighter and thus save the double handling incident to the movement on open billing.

It may be that the proportion of the flour shipments that move to New York on direct billing can not be materially increased, and possibly in so far as flour is concerned, the charge does not accomplish its purpose. The service performed at the New Jersey piers may in general be substantially the same on direct as on open billing; if additional services are performed in connection with shipments moving on open billing such services do not constitute the basis for the charge. But the fact remains that because the flour brokers have no facilities of their own they must conduct their business in a way that requires the use of defendants' facilities. The use of space for the flour traffic means that much less space is available for other traffic. The holding of flour on the piers for the account of consignees contributes to car shortage and the congestion of yards because it displaces other freight on the piers and thereby does its share toward congesting the piers and preventing the prompt unloading of cars. The flour brokers are therefore in the same category with shippers of other commodities who elect to employ open billing and thus make use of defendants' property until they are prepared to give directions for specific delivery. The mere fact that one

man's business requires him to use defendants' facilities is no reason for treating him differently from the man who is in position to choose between using his own facilities or those of the defendants. If we require the cancellation of the charge for the flour shipper we should be expected to do so for the shipper of any commodity who refused to allow the charge to induce him to use direct billing. In other words, it would not be fair if the shipper of one commodity should be relieved of the charge merely because it is to that shipper's advantage to pay the penalty rather than forego the benefits of open billing. The charge is nominal and is based upon sound transportation considerations.

We find that the charge has been justified. The complaint will be dismissed.

NO. 9275.

Defendants' assess storage charges at the port of New York in case the time which elapses between the arrival of an export shipment by rail and its delivery to the ocean carrier exceeds the free time allowance of 15 days. The New York Produce Exchange assails these charges and the rule which requires that the shipper shall guarantee the payment thereof, should they accrue, as one of the conditions precedent to the issuance of a through export bill of lading. On account of present conditions it frequently happens that there is a delay of more than 15 days at New York. Sometimes a rail carrier fails to get a shipment to New York before the sailing of the ship, and sometimes the ship is requisitioned for other purposes and can not take the intended cargo. In such cases the shipment must be held until new space can be arranged for. Generally speaking, the trans-Atlantic lines have no piers of their own where export shipments can be stored, and the burden of holding them falls upon the rail lines. The rail lines have no means of compelling the ocean carriers to accept the shipments, nor can they require them to bear the storage charges or to carry them as advances to be collected from the ultimate consignee in the foreign country. For these reasons the rail carriers refuse to issue a through export bill of lading unless the shipper guarantees the payment of any storage charges that may accrue at the port. Defendants contend that a shipper is not entitled to a through export bill of lading as a matter of right, and that were it not for their willingness to issue through export bills of lading the questions presented in this case would not arise.

A through export bill of lading is not a joint undertaking for the through carriage of property from an interior point in this country to a foreign port. It is merely an instrument combining for the convenience of the shipper the separate and several contracts of

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the rail carrier to the American port and of the ocean carrier beyond. As a matter of law, neither the rail nor the ocean carrier is liable for the storage charges at the port. But a further question is here presented, namely, whether under section 1 of the act it is just and reasonable when a shipment moves on a through export bill of lading to assess storage charges at the port. Complainant refers to our decision in *Galveston Commercial Asso. v. A., T. & S. F. Ry. Co.* 25 I. C. C., 216. We there condemned in a general way a somewhat similar situation which existed at Galveston with respect to export cotton. In the light of the peculiar circumstances of that case, and the admission of ship agents that they should be held, we expressed the view that the ship agent should bear the demurrage which accrued at that port after the expiration of the free time, but that he should be protected by reasonable arrangements, particularly a properly adjusted free time allowance. We did not hold, as complainant would have us hold in this case, that the rail carriers should stand responsible for demurrage or storage after the expiration of the free time.

The question whether such charges should be assessed is squarely presented and has been fully and thoroughly briefed and argued in No. 4844, *In the Matter of Bills of Lading*. Without prejudice to any conclusion that may be announced in that case, we hold upon this record that the assessment of such charges has been justified.

If the assessment of storage charges at the port is proper on shipments moving under through export bills of lading, the requirement that a shipper guarantee the payment thereof must also be proper, for a carrier, as a matter of law, has the right to go even so far as to require the prepayment of all charges before accepting a shipment for transportation. Moreover, we held in *Evans Lumber Co. v. C. of Ga. Ry. Co.*, 43 I. C. C., 476, and in the cases there cited, that the Commission had no power to require the issuance of through export bills of lading. If carriers voluntarily issue them, they may attach such terms as they deem proper, so long as no unjust discrimination is practiced.

Upon this record we find that the rule complained of has been justified. The complaint will be dismissed.

NOS. 9247 AND 9217.

Through export bills of lading covering the transportation of property from interior points in the United States to points in foreign countries via the port of New York, as well as domestic bills of lading bearing the notation "for export," were at the time of the hearing issued only in case the shipper before delivering the
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property to the rail carrier at point of origin had contracted with an ocean carrier for the movement from New York. At the present time the carriers are not accepting traffic for export unless covered by a government license. However, shipments may move to New York or to New York harbor holding points as domestic consignments and later be exported. In such a case, contrary to the former practice, the tariffs now provide for the use of the rates, rules, and regulations applicable to domestic traffic. In other words, there is now no tariff which links the rail movement to New York on a straight domestic bill of lading with a later and separate ocean movement therefrom. The present rule was adopted to prevent, so far as practicable, the making of shipments to New York until ship space is secured. A shipper who chooses to defeat the spirit of an embargo against the making of export shipments to New York before he has secured his ocean space suffers the penalty represented by the difference between the provisions of the export and the domestic tariff schedules.

Shipments of flour which move on straight domestic bills of lading and are later exported do not pass into actual possession of the consignees at New York. After being unloaded by the carrier at the New Jersey piers the consignee may order the flour delivered to a lighter for transfer to a ship in the harbor. The service performed is identical with that which is accorded when the shipment moves on a domestic bill of lading bearing the notation "for export" or on a through export bill of lading, except that in the latter case no inspection by the representatives of the New York Produce Exchange is permitted.

In No. 9817 complainant assails the provisions for the application to such shipments of the domestic freight rates, rules, and regulations, and in No. 9247 the provisions for the application thereto of the domestic storage charges, rules, and regulations.

Complainant contends that a shipment which moves to New York on a straight domestic bill of lading and is later exported becomes an export shipment from the point of origin and is entitled to everything that the tariffs provide for export shipments. This contention is made although there is, as stated, no tariff which links the rail haul with the ocean movement, and although on a domestic bill of lading there is the implied intention that the shipment is to go to New York and no farther. We do not agree with complainant's contention, but whether it be called domestic traffic or export traffic is not material in this case. The rates, rules, and regulations to be applied to the traffic are not dependent upon the name used to describe it.

It is sometimes necessary to use a shipment which has moved to New York on a straight domestic bill of lading to take the place of one which is billed for export, but which has not reached New York in time to meet the ship on which it was to be exported. Although the fault is with the rail carrier the New York broker is denied the benefit of the more liberal storage charges, rules, and regulations which apply on export traffic. For instance, only 5 days' free time are allowed on domestic traffic while 15 days are allowed on export traffic. The shipper, as a practical matter, can not charge the difference in storage cost to anyone else and must absorb it if he is to compete successfully with rival dealers who bill their shipments for export from point of origin. The free time is designed largely to offset the possible delays of the rail carrier in getting the shipment to the port, but owing to the unusual conditions that now exist it frequently happens, as stated, that a shipment must wait at New York for a much longer period.

The situation is not what it should be, but adequate relief is probably not to be had at present. The hardships of the war are well-nigh universal. We have no suggestion from complainant as to how the situation can be remedied except by the reestablishment of the former practice, and that we are not prepared to do.

We find that the rule has been justified. The complaint will be dismissed.

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INVESTIGATION AND SUSPENSION DOCKET No. 928.
VEGETABLE OILS TRANSPORTATION.

Submitted March 14, 1917. Decided October 1, 1917.

Proposed rule requiring shipments of China wood oil and soya bean oil in wooden packages, in carloads to be in iced refrigerator cars, during the period from April 1 to October 31 each year; and requiring the shipper to deliver to the carrier a sworn weigher's certificate with each shipment, found not justified, and suspended tariffs required to be canceled.

William L. Kinter and Douglas Swift for respondents.
Raymond A. Van Kirk for protestant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

By tariffs filed to take effect October 1, 1916, respondents proposed to establish in connection with the transportation in trunk line territory, under official classification ratings, of China wood and soya bean oils, among others, in wooden packages, in carloads, the following rule:

NOTE.—Shipments may be loaded in box cars or in refrigerator cars without ice during the period November 1st to March 31st (both inclusive) of each year.

During the period April 1st to October 31st (both inclusive) of each year, shipments will not be accepted unless tendered for transportation in iced refrigerator cars, the expense of icing to be borne by shipper.

No shipments of these oils will be accepted at any time unless accompanied by a sworn weigher's certificate, procured or paid for by the shipper.

Upon protest of the National Varnish Manufacturers' Association, in so far as they concerned the two oils mentioned, the schedules were suspended, and subsequently the effective date was voluntarily postponed by respondents until November 29, 1917. The tariffs also included peanut, olive, coconut, copra, palm, and palm-kernel oils, as to which no protest was filed, and to that extent the tariffs were permitted to become effective.

China wood oil and soya bean oil are imported from China and Japan. Shipments are made from the ports of entry principally during the summer and fall months. Importations are in wooden barrels, about 25 per cent of the shipments being transferred to tanks at the ports, and the remainder going forward in barrels. Upon arrival at the ports that oil which moves beyond in barrels remains in the original package, unless the package is damaged, in which event it is recoopered or a new container is provided. At

present all such oils arrive in the United States through the Pacific ports, although formerly shipments were made through Atlantic ports.

Respondents represent that summer heat expands the volume and reduces the viscosity of the oils, causing unavoidable loss and damage on shipments in wooden containers, for which they are called upon to pay, and which the refrigeration proposed in the suspended tariffs would prevent or greatly lessen.

While the evidence discloses that claims for loss and damage are not infrequent, the record strongly suggests that they may or do result in a large measure, if not wholly, from defective cooperage, rough handling, and improper loading. Considering the evidence of two chemists, opposing witnesses, we do not find it to have been established that at summer heat either of the oils in question will, through expansion and thinning, force its way from well-conditioned barrels.

Unquestionably, actual leakage would be greater when the oil is heated than when not; but it does not sufficiently appear that a good barrel, so filled as to allow for expansion, properly stowed for shipment in a suitable car, and transported with ordinary care and in reasonable time, is not a safe container for shipping such oils; nor does it appear that shipments so made require refrigeration.

No evidence was offered seeking or tending to show the reasonableness of the increased charges which the shipper would incur were the suspended tariffs to become effective. Not only would the expense of icing be added, but a witness for respondents admitted that, with the existing minimum of 30,000 pounds, the inadequate capacity of refrigerator cars, and the exception of refrigerated shipments from the "follow lot" rule of the official classification, less-than-carload rates would be chargeable on portions of shipments that otherwise would take carload rates; and, by the same token, carload rates would as often be assessed at a minimum weight in excess of the actual loading.

Upon all the facts of record, we find that respondents have failed to justify the proposed requirement that such shipments be transported, during the months named, in iced refrigerator cars. There is, of course, nothing in this finding to prevent carriers, for their protection, from declining to accept shipments in defective or unsuitable barrels.

While the suspended provision relating to furnishing sworn weight certificates was intended principally to meet conditions applicable to import shipments at New York, N. Y., it is not so limited, and would apply on shipments brought to New York from the Pacific ports, there stored, and later reshipped.

It appears that the respondents have no weighing facilities at the docks of the steamship companies and can not weigh these oil shipments until they have been lightered to their railroad terminals, in the course of which transfer leakage may occur. Respondents urge that the steamship companies accordingly insist upon "clean" receipts, based upon the external appearance of the containers, and that, therefore, it is impossible to fix upon those companies responsibility for loss occurring prior to delivery to the rail carriers. The importer has his oil weighed as it comes from the ship by sworn weighers stationed on the docks, and could in many, if not most, instances furnish a certificate of this weight with little or no cost to himself.

While protestant appears to have no serious objection to the proposed rule as applicable to shipments transferred from steamship to respondents' lighters, it does object to its applicability to shipments which have been removed from the docks into storage and subsequently are tendered for shipment. In the latter case, it is testified, the shipper would incur additional expense and inconvenience. Respondents' answering argument, unsupported by evidence, that this is but an incidental effect of the rule, the purpose of which even in that respect could be accomplished without laying any serious burden on the shipper, does not meet the statutory burden resting upon them. Upon all the facts disclosed we find that, at least in its present form, the rule has not been justified, and an order requiring its cancellation will be entered.

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INVESTIGATION AND SUSPENSION DOCKET No. 1060.
TIDEWATER DEMURRAGE.

Submitted October 24, 1917. Decided December 11, 1917.

Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., found to have been justified.

Alexander H. Elder and *Henry Wolf Bikelé*, committee of counsel for respondents; and *William Ainsworth Parker* for Baltimore & Ohio Railroad Company.

G. V. S. Williams and *Charles S. Allen* for various coal distributors at New York, Philadelphia, and Baltimore; *A. G. Dickson*, *Henry S. Drinker, jr.*, *C. E. Morgan, 3d*, and *H. M. Search* for Anthracite Coal Operators' Association; and *E. Bartram Richards*, *Thomas Raeburn White*, and *William A. Glasgow, jr.*, for Franklin Sugar Refining Company and American Sugar Refining Company.

George W. Jackson for protestants.

REPORT OF THE COMMISSION.

DIVISION 1, COMMISSIONERS McCHORD, MEYER, AND AITCHISON.

BY DIVISION 1:

By schedules, filed to take effect April 10, 1917, and later dates, respondents proposed the following reductions in free time for carload shipments of anthracite and bituminous coal and coke, transported to tidewater terminals at or near Jersey City, N. J., Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., for transshipment by water: Under the usual or "straight" demurrage plan, from 10 days to 6 days, and under the average agreement plan, from 5 days to 3 days. Upon protests filed by various coal mining operators and associations and retail and wholesale coal dealers, the schedules were suspended until February 8, 1918.

The phrase "tidewater coal" is applied to shipments from interior mining points billed to the railroad terminals at north Atlantic ports and unloaded, at the expense of the carriers and by means of their special facilities, into vessels or barges for transshipment by water. The transportation rates cover the movements up to the tidewater terminals and the unloading service. The water movements are not under a common arrangement with the rail lines.

The points of destination include all of respondents' tidewater coal terminals on the Jersey shore of New York harbor, extending from Undercliff, N. J., to St. George, Staten Island, N. Y., and South Amboy, N. J.; also the terminals in the vicinity of Philadelphia and Chester, Pa., Wilmington, and Baltimore.

The present and proposed free time provisions are practically uniform, except that the tariffs of the Baltimore & Ohio Railroad, Staten Island Rapid Transit, and Western Maryland railways, Pennsylvania Railroad and affiliated lines, Philadelphia & Reading Railroad and affiliated lines, and New York, Ontario & Western Railway provide both the straight demurrage plan and the average agreement, whereas the tariffs of the Erie, the Delaware, Lackawanna & Western, and the Lehigh Valley railroads and Central Railroad of New Jersey provide only the average agreement. Prior to 1907 tidewater shipments were allowed to remain in the cars at the ports indefinitely without demurrage charges. Thereafter, and until June 1, 1916, the free time allowed at some terminals was 15 days straight demurrage, and 7 days average agreement; at others, 12 days straight demurrage and 5 days average agreement. On June 1, 1916, the present allowance of 10 days straight demurrage and 5 days average agreement became effective.

It is the practice at the mines to load and forward the entire daily output of coal according to sizes and grades, no storage facilities being provided there for the reason, it is testified, that the storage of particular sizes is impracticable, principally because of the added expense. The movement to tidewater is usually in trainloads and the volume is enormous. At the different tidewater coal terminals the capacities of the storage tracks vary from 100 cars to 3,000 cars. The cars are there classified according to the particular shipper and consignee and the particular kind and size of coal. Many coal operators bill cars to themselves and, upon arrival, order the carrier to place so many tons of a certain kind and size into a particular barge or vessel, without designating particular cars. When the barges provided by the shippers have been registered and docked at the piers the cars, which are thereby released from detention, are switched and unloaded directly into the holds by automatic car dumps at some piers and by means of trestles and chutes at others. Cars can be unloaded and moved from the automatic dump tracks within a minute and a half after placement, while the unloading of hopper-bottom cars at the chutes requires only a few minutes. Under the present method of handling coal according to classifications, which requires excessive switching, the unloading facilities can not be operated at full capacity; each classification must be assembled for a particular barge. In May, 1917, the Pennsylvania

had at South Amboy 888 classifications of bituminous coal. The number of classifications of anthracite at the different terminals averaged about 800. There is practically no difference between the handling of bituminous and anthracite coal, except that it includes but two or three sizes or grades of bituminous and eight sizes of anthracite. The additional number of sizes of anthracite multiplies the classifications, but embargoes are less frequent on anthracite than on bituminous coal.

The water movements consist of hauls by barges to private and public piers and by vessels to New England ports. A small amount of the tonnage is dumped directly into vessel bunkers, and but little is for full cargo movement by vessel. The most important movement is by barge from the New Jersey terminals to Greater New York, especially Manhattan Island and Brooklyn, for local consumption. New York offers the largest market for tidewater coal. On account of the lack of storage facilities and the great congestion of population on Manhattan Island there is a demand for a constant stream of coal from day to day, varying in volume with the seasons. It is estimated that the retail storage space on Manhattan Island is limited to a supply sufficient for about 10 days. Less than 10 per cent of the coal consumed in New York City moves on car floats and practically none by all-rail routes; tidewater shipments from terminals on the Jersey shore comprise over 90 per cent of the city's total tonnage.

Exhibits filed on behalf of respondents purport to show that the average detention of tidewater shipments of coal, both anthracite and bituminous, during the year 1916 was 3.83 days under the average agreement and 5.25 days under straight demurrage, and it was testified that during 1916 the detention was abnormally high. These exhibits are not uniform, there being in some cases no separation of the two demurrage plans and in others a commingling of anthracite and bituminous shipments; and as the figures which indicate net average detentions also are computed in many instances upon other averages, they are of interest only as approximations of results under the present free time allowances. It appears that the average detention of anthracite coal was a fraction of a day more than that of bituminous under the average plan and approximately one and one-half days more under straight demurrage. The experiences of the Lehigh Valley and the Baltimore & Ohio indicate that the average detention tends to diminish as the abnormal conditions of congestion are abated. The lower yearly averages do not mean, of course, that no demurrage accrued, as the accounts under the average agreement are adjusted monthly, and in many instances substantial sums were assessed.

It appears that the present free time allowance was not fixed by calculating the time actually necessary for the accumulation of cargoes at the ports, but rather that the former, present, and proposed allowances represent a progressive series of attempts to eliminate the car waste resulting from the abuse of the old practice of permitting indefinite detention without penalty. The revenue accruing from the charge of \$1 per car per day after the free time may be largely or wholly offset by the per diem charge for foreign equipment of 75 cents per car, which runs during the period of free time as well as during the demurrage period. Respondents expect that the proposed reduction will secure more prompt release of equipment, which in turn will enable the operators to increase the production. This would not only increase the carriers' revenues but would also benefit the public during these times of increased demand. Since the outbreak of the European war the shortage of vessels has caused large increases in the rates for water transportation, and the supply of coal for New England, which up to this time has moved largely by vessel from Hampton Roads, Va., has been diverted to a considerable extent to the all-rail routes, thus further increasing the congestion of cars at the tidewater ports and the delays incident to the movement of equipment to and from New England. During the winter of 1916 adverse weather conditions added to the difficulties and necessitated widespread embargoes. At the instance of the Council of National Defense the carriers' agents have been instructed to give preference to the movement of coal, coke, ore, and furnace material, and efforts are being made by the carriers along varied lines to facilitate the movement of these kinds of traffic. Between January 1, 1907, and January 1, 1917, respondents augmented the carrying capacity of their coal equipment from 5,115,537 tons to 9,108,789 tons by increasing the size and number of their cars. During the past year the carriers hauled 66,000,000 tons of coal more than during 1915, and the tonnage is still increasing. At the time of hearing the anthracite mines were supplied with practically all the cars needed, but the supply for bituminous mines is still considerably below the output. Precautions are being taken to prevent during the coming winter a recurrence of the congestion experienced during the past two years. For respondents it is predicted that the proposed reduction in free time will enable them to keep their tidewater terminals and storage tracks open for the prompt and regular movement and handling of coal.

One measure undertaken to promote the relief of congestion at tidewater was the formation of a pooling arrangement for bituminous coal, to become effective at about the same time that the schedules here suspended were to take effect. It is proposed to unload the

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coal into barges according to numerical designation of the classifications, without regard to the identity or origin of the coal. This will result in reducing the number of classifications of bituminous coal to about 41, and a similar arrangement as to anthracite, which respondents hope to effect, would mean a reduction in classifications from about 800 to less than 100. It is claimed that under the pool the bituminous classifications for the Pennsylvania, for instance, will be reduced to 17 at its Baltimore, Philadelphia, and New York terminals. It was testified that the pool for lake coal, which went into effect in the spring of 1917, has been successful and has reduced the average detention to about two days. A material benefit to be derived from the pool is the reduction in the amount of drilling and switching required under the present complex system, and respondents predict that the operation of the arrangement at tidewater will reduce the average detention to less than three days. This, it is estimated, will enable the carrier to transport 6,000,000 tons of coal per year additional. One of the conditions of the pooling arrangement is the reduction of the free time to three days, average agreement, as proposed.

It was testified for respondents that it was not uncommon in the past for operators to ship to tidewater when they had neither made a sale nor engaged a boat; and that during the winter of 1915-16 from 30 per cent to 40 per cent of shipments to tidewater arrived prior to sale. This practice is also referred to upon the record as speculation. To prove that the holding of coal on account of market conditions produces congestion and irregularity of movement to the ports, it is shown that the maximum of congestion and average detention occurs in the summer months, when the market for coal is lightest and the transportation conditions best for regular movement and prompt unloading. During the first five months of the year 1917 the demand for coal of all sizes and kinds was so great that the percentage of coal unsold at the time of arrival diminished. One of protestants' witnesses testified that the increased demurrage paid during the summer months might be due to delays of cars in transit and irregularity of movement to the ports, to delays in securing boats, or to the shipper's desire to dispose of the coal at a profit.

Protestants contend, and their witnesses testified, that the proposed reduction in free time can not result in more prompt release of cars, because their business is now being conducted with the greatest possible dispatch; that shippers now have every incentive, for commercial reasons, to have their coal unloaded as quickly as possible; that the proposed reduction will result only in increasing the amount of demurrage charges, which will have to be borne by

the coal dealers or the consumers; that it will be impossible for coal dealers, other than the large coal companies that are controlled by the carriers, to escape payment of demurrage; that coal is moved to the ports with such irregularity that a boat cargo can not be accumulated without the payment of demurrage, either for cars or for boats; and that it is practically impossible to accumulate a full export cargo of from 5,000 tons to 8,000 tons within the proposed free time.

To support their contention that the present free time is a necessary incident of tidewater traffic, numerous illustrations are given. For example, out of a shipment of 700 tons of gas coal to St. George, the first car was shipped from the mines May 20 and arrived June 6, 17 days en route; the last car was shipped June 4 and arrived on the 13th, 9 days en route; one car shipped May 29 arrived June 4, 6 days en route. The variation between the arrival of the first and last cars was 8 days; but the variation between the loading dates of the first and last cars was 15 days, or in excess of the variation of time en route. Furthermore, it is admitted that gas coal is not shipped in great volume, and it appears that in order to accumulate a cargo of this particular kind of coal demurrage accrues, even under the present free time. Another example cited was a shipment of 1,500 tons of gas coal from a mine near Pittsburgh, on which one car was en route 4 days and another 23 days, a variation of 19 days; but the period of loading extended from April 3 to April 30, a spread of 27 days. It was claimed that in this instance the delay in loading was due to delay in furnishing cars. Each of the orders in the two illustrations cited was purchased from one mining operation, according to usual practice. The spread in the time of loading is usually due to the fact that the average mining operation must load all of the sizes produced concurrently and can not load enough of a particular size or kind in one day to fill an average order. For respondents it is contended that there is no delay in loading the cars which have been placed at the mines, and suggested that the dealer might divide his order for a particular size between a number of mining operations in order that the loading could be performed in one day. It is urged for respondents that under such a wide spread in the loading period the shipper should not expect to escape payment of demurrage.

The irregularity in the movement of cars from mines to tidewater is particularly stressed by protestants to support their contention that the average shipper will not be able to escape the payment of demurrage under the free time proposed. Many instances of irregularity in movement were shown in the record, and of demurrage which accrued in spite of the efforts of consignees to use their delivery and storage facilities to capacity. It is testified that such

irregularity was a more or less common experience during the past winter. The shippers wait until a number of cars for a certain order have arrived, then have the barge placed, and run the risk of holding the barge and paying demurrage thereon until the balance of the cargo arrives. Their alternative is not to order the barge until the cars have arrived.

It is testified for respondents that, while there is some variation among the carriers, tidewater coal moves with greater regularity than any other freight, except high-class tonnage which moves in special fast freight trains; and that the average time on the Pennsylvania under normal conditions from mines to tidewater has been from four days to seven days; further, that when the number of cars detained at tidewater terminals increases, the storage tracks become blocked and as the later cars arrive the congestion is extended farther and farther back into freight yards and on to the lines of road, hindering the flow of traffic and necessitating embargoes. It is insisted for respondents that the acute congestion during the past two winters was the primary cause of the irregularity of movement and that the proposed reduction in free time will tend to avoid its recurrence; also that under ordinary conditions the movement from the mines to tidewater should not vary more than one or two days. For the Central Railroad of New Jersey it is shown that in January, 1917, 51.3 per cent of the cars shipped from collieries on its lines arrived at tidewater within one day, 39.52 per cent within two days, 6.48 per cent within three days, 1.31 per cent within four days, and the remainder within five days and over; in July, 1916, 39.97 per cent arrived within one day, 46.88 per cent in two days, 8.69 per cent within three days, 2.49 per cent within four days, and the balance within five days and over. The maximum time required for any one car was 16 days in January, 1917, and 10 days in July, 1916. During the past two years 88.83 per cent of all its cars arrived within two days and 95.89 per cent within three days. It is stated that the records of the Delaware, Lackawanna & Western probably will show even greater regularity; that 95 per cent of the shipments over the Lehigh Valley move within from one day to four days, and that the record of the Erie is about the same. The record of the Philadelphia & Reading appears not to have been so good.

The barges used at tidewater carry an average of from 500 tons to 600 tons, or from 12 cars to 14 cars. For protestants it is testified that the rail carriers control a large percentage of the towboats used in New York harbor, and that, as it is necessary to secure barges before the coal can be unloaded, and they can not be placed before arrival of the cars without accrual of barge demurrage, shippers are dependent upon the carriers in respect of both rail and

water movements. During the past winter there was a shortage of boats in New York harbor, and weather conditions have a bearing upon the time within which they can be docked at the piers. The rail lines own tugs or towboats which operate at Port Reading, South Amboy, and some other piers, but not at St. George. Most of the tugs used at South Amboy are owned by the Pennsylvania, but the evidence for that carrier is that shippers are not limited to the use of its tugs and can secure both tugs and barges from independent companies.

While in many instances the present allowances of free time have been materially exceeded, it appears that the general average detention on all of respondents' lines during the year 1916, under disadvantageous conditions, was less than the free time under the proposed schedules for the straight demurrage plan, and the figures submitted for the first part of the year 1917 indicate that the abnormal conditions have been to some extent relieved and the average detention correspondingly decreased; furthermore, that a number of shippers, under varying circumstances, have been able to conduct their tide-water business within the average free time proposed, even under the abnormal conditions which have existed. While the protestants have shown that considerable demurrage has accrued on cars and on boats from irregularity in the periods of time cars were en route over the lines of certain carriers, it also appears that the irregularity of movement has been caused to a large extent by the congestion of traffic at the ports. In other words, the record does not demonstrate that either condition is the cause or the effect, and the fair conclusion is that each in turn has contributed to the other. While, therefore, the reasonableness of any period of free time for this traffic may well depend in large measure upon a fair and efficient cooperation on respondents' part, the carriers' equipment should not be detained for storage purposes beyond any period reasonably necessary to effect its release, and, subject to such modifications as future practical results may require, our conclusion is that the periods proposed should suffice.

Upon all the facts of record we find that respondents have justified the proposed reduction in free time, and the orders of suspension will be vacated.

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No. 9010.
MINNEAPOLIS TRAFFIC ASSOCIATION
v.
CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY
ET AL.

Submitted March 1, 1917. Decided October 2, 1917.

Transit rules at Minneapolis, Minn., applicable to shipments of grain and the rates resulting therefrom not shown to be unjust, unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

W. P. Trickett and T. A. McGrath for complainant.

J. S. Brown and Jeffrey & Campbell for Board of Trade of the City of Chicago, intervener.

George A. Schroeder for Chamber of Commerce of Milwaukee, intervener.

O. W. Dynes for defendants.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

The Minneapolis Traffic Association brings this complaint on behalf of residents of that city who are engaged in buying, selling, shipping, and milling wheat and other grain and flaxseed.

The Chicago, Milwaukee & St. Paul Railway Company, hereinafter termed the Milwaukee, is the principal defendant, but certain smaller lines connecting with the Milwaukee are also joined as parties defendant. The transit rules and regulations of the first-named carrier constitute the chief point of attack.

The complaint does not assail the rates *per se* to the several markets considered as through rates, but asks that such unrestricted transit be prescribed at Minneapolis as will in general give that market the benefit of the through rates on all grains stopped thereat for whatever purpose. The rates as now applied are alleged to be unreasonable, but this allegation is based on and must stand or fall with the allegations assailing the Milwaukee's transit rules. For this reason we need only discuss the issues presented with reference to the transit situation at Minneapolis as covered by the rules and regulations of the Milwaukee.

Rates are stated herein in cents per 100 pounds.

The complaint specifically alleges that the rates are unlawful in violation of sections 1, 2, and 3 of the act because there are applied

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thereto transit rules which are unjustly discriminatory and unduly prejudicial to Minneapolis. The transit rules are alleged to be unlawful because of (1) limitations upon the kinds of grain receiving transit, only wheat, rye, and oats, carloads, being accorded this service; (2) limitations upon the character of the transit which covers milling only; (3) the delimited area of production from which transit is accorded, excluding in large part territory south of the Milwaukee's main line running directly west of Minneapolis; (4) the failure to provide transit to Duluth-Superior; and (5) the exclusion of Minneapolis grain interests other than millers from the enjoyment of transit.

The Board of Trade of the city of Chicago and the Chamber of Commerce of Milwaukee intervened in opposition generally to the prayers of the complainant.

The first of complainant's general allegations as stated on brief is that the competitors of Minneapolis have transit on grain and seeds of all kinds while the transit at Minneapolis is limited to wheat, rye, and oats destined for Chicago and points taking the Chicago rate basis.

In cases hereinafter cited we have approved or prescribed rates on wheat which made 4 cents the maximum by which the through rates to Duluth should exceed the rates from the same points of origin to Minneapolis; and rates to Chicago and Milwaukee carrying a maximum differential over Minneapolis of $7\frac{1}{2}$ cents. Chicago and Milwaukee are given the same rate basis on grain and grain products; and hereinafter the Chicago rate adjustment will be understood to cover Milwaukee unless otherwise stated. These differentials were graded down to destination points relatively nearer to the points of origin, and where Duluth or Chicago is nearer to the points of origin, the rates to Duluth or Chicago are less than to Minneapolis.

The proportional rate on coarse grain from Minneapolis to Chicago, where an inbound rate of $7\frac{1}{2}$ cents or more has been paid, is $7\frac{1}{2}$ cents, or the same as the maximum differential on wheat Chicago over Minneapolis. This adjustment makes a group around Minneapolis in which much rye is grown, from which the through rate to Chicago is 15 cents.

A purchaser of coarse grain at Minneapolis who pays less than $7\frac{1}{2}$ cents inbound on his shipment must pay more than $7\frac{1}{2}$ cents to move his grain to Chicago, so to him this grain at Minneapolis is less valuable than the grain on which he has paid $7\frac{1}{2}$ cents or more inbound in the sense that it carries a higher outbound rate than $7\frac{1}{2}$ cents; but the freight cost inbound is correspondingly less, and all the coarse grain from the limited territory around Minneapolis pays to Chicago is 15 cents; and as some, at least, of the grain is consumed at Minne-

apolis, the 7½-cent proportional may be applied to the grain shipped out, the grain paying the lower rate being available for local consumption. That the grower on the outer edge of this territory pays but 15 cents does not of itself give him an undue preference over the grower nearer to Minneapolis who pays the same amount through to Chicago. This grouping basis for through rates, and lower rates for shorter hauls into the first market, Minneapolis, is but part of the very general system of rates applied in this territory. This system is generally satisfactory and it is only particular applications thereof that are complained of. The combination rates on Minneapolis exactly equal the through rates to Chicago.

Milwaukee has, under certain restrictions, transit on grain and seeds generally when reshipments are made to Chicago. This results from the fact that some of the routes to Chicago pass through Milwaukee, whereas other lines to Chicago cut the east and west line of the Milwaukee; the rates to these points are consequently the same. The transit at Milwaukee maintains this parity, a parity which the Commission has approved. *Commercial Club of Superior, Wis., v. G. N. Ry. Co.*, 24 I. C. C., 96.

Minneapolis has not grown as a coarse grain market commensurately with her growth as a wheat market, and it is alleged that the refusal to accord transit on coarse grain is the cause. We are not satisfied from evidence adduced in this record that defendants' failure to accord transit on coarse grain or on seeds has contributed to this result; nor does the record demonstrate that the Milwaukee's failure to provide transit on other grains than wheat, rye, and oats, or upon seeds, unduly prejudices Minneapolis.

The second allegation of complainant, that the Milwaukee's transit at Minneapolis is confined to milling, and does not cover storing, grading, cleaning, mixing, crushing, and other transit services accorded to certain of Minneapolis's competitors, will be canvassed in connection with the allegation that transit is confined to consignees who are millers.

Complainant's third allegation, as recited on brief, is that defendants do not accord transit at Minneapolis on grain or seeds originating at points on the Milwaukee in Minnesota, South Dakota, and Iowa, which are situated south of the direct line of that road from Minneapolis west.

This adjustment which has resulted from various cases previously decided by us, and the alteration of which would involve fourth section violations, back hauls, and the disruption of rate relationships of long standing, we are not persuaded should be changed upon a collateral attack aimed at transit rules at Minneapolis.

From points on the main line of the Milwaukee west to the Pacific coast, Minneapolis has transit on wheat to Chicago. From these points Minneapolis is directly intermediate to Chicago. From points on the Midland Continental Railroad in North Dakota, the same transit is permitted, but a charge of 1 cent per 100 pounds is made. From points in Montana a charge of 2 cents is made for the transit service. The 2-cent charge is made where no competition forces a lower charge; the 1-cent charge is similarly explained; and competition forces the adjustment from the points where transit is granted without charge. There are points in the states of Idaho and Washington, from which ordinarily little grain moves eastward, where practically unlimited transit at Minneapolis exists on wheat, rye, and oats. On this traffic the Milwaukee gets a longer haul and higher per car earning than on shipments from the points not accorded equally liberal transit. Apparently the same charge for transit is made to Minneapolis's competitors on grain from these sections, and the allegation of discrimination as between localities does not seem sustained.

Attack is made on the defendant's transit rules because no transit is granted on shipments through Minneapolis to Duluth, except the right to reconsign on the original waybill at the through rate from point of origin to Duluth. In passing, it should be observed that no carrier having its own rails from Minneapolis to Duluth is made party to this proceeding.

While the Milwaukee operates no trains to Duluth it has certain contractual arrangements with the Northern Pacific Railway Company by which to serve Duluth. No transit is granted by defendants on grain to Duluth. No evidence was presented showing, or tending to show, that the rates to Duluth are unreasonable or that such rates are sufficiently high to include the added service of transit.

The transit situation here assailed has existed for many years, and has been the subject of complaint by Minneapolis interests since 1909. The transit regulations were considered in some, if not all, of the cases cited herein. Rates from South Dakota points to Minneapolis were made as the result of "highly competitive conditions." *Investigation of Advances in Rates on Grain, infra.* In *Commercial Club of Superior, supra*, the claim was made that the Minneapolis milling in transit gave a preference to this market over the Lake Michigan ports. In the report in that case, page 119, we described this transit, remarking that it was "almost universal throughout the country." So that in prescribing and approving the rates and relationships now existing, we may be presumed to have done so with knowledge of the transit rules of the various markets.

This record shows that were broader transit rules granted, Minneapolis would be benefited; but it does not show that the rates being paid would be reasonable for the increased service sought. The transit rules are not uniform, neither are the rates, and the circumstances differ at each market. To grant the relief prayed would disrupt a complex and delicate adjustment which has in part grown up with markets and in part has been prescribed by us after exhaustive investigations.

The Milwaukee's rule here assailed reads in part as follows:

Grain must be consigned from original shipping point to the miller at Minneapolis, Minn., in whose account the transit tonnage is to be credited, and transit privilege will not be given on grain transferred from one consignee to another.

It will be noted that the rule quoted is a milling-in-transit rule, which does not permit the usual transit on grain bought, elevated, and thereafter sold to a miller. Grain may be reconsigned at Minneapolis for Duluth at the through rate plus a \$2 per car charge, but reconsignment and transit are not so similar that the granting of one would require that the other be accorded.

The right to transfer the transit would benefit millers and give grain dealers a wider market at Minneapolis. As it now is, when a miller rejects a car of grain, and the grain is sold to an elevator, the transit is lost.

Flour mills, many of which are at points in Minnesota south of Minneapolis, such as Winona, Red Wing, Mankato, Hastings, and La Crosse, buy the greater part of their wheat in the Minneapolis market. On this wheat these so-called "interior millers" obtain transit, paying from Minneapolis via the interior transit point to Chicago the proportional rate of 10 cents on wheat and its products, and to New York a proportional rate made by adding 8.3 cents to the rate from Chicago. Should transit be granted as here requested the Minneapolis miller could buy the same grain in the Minneapolis market and obtain the benefit of the through rate from the point of origin to Chicago. This is but $7\frac{1}{4}$ cents in excess of the rate to Minneapolis. In effect the Minneapolis miller would have a proportional rate of $7\frac{1}{4}$ cents to Chicago, while the interior miller would pay 10 cents on grain bought from the same Minneapolis elevator.

This situation seems to be the crux of the whole matter, at least so far as Minneapolis prays for unrestricted or open transit on the through rates from points of origin to Chicago. If the transit at Minneapolis were open, not alone to millers, but to receivers, merchandisers, and elevator men, and were assignable by the latter to the purchasing Minneapolis miller, the latter would have $2\frac{1}{4}$ cents advantage over the "interior millers," and the present system of

equalization as between the Minneapolis miller and the "interior miller" would be destroyed. If a similar rate reduction were accorded the interior miller, the chief defendant's revenue which runs generally under 5 mills per ton-mile and under 10 cents per car-mile on this traffic would be substantially reduced, whereas this record contains no evidence whatever that its present revenues on this traffic are unreasonable or excessive.

The record in this proceeding appears strongly to indicate that the Minneapolis miller is more concerned over the quality of the grain he purchases than over the price. The Minneapolis millers apparently do not make extensive use of the transit here under consideration. The Minneapolis grain merchants who have, from time to time, consigned from country points of origin cars of wheat to Minneapolis millers direct, in the expectation of receiving a premium on the wheat, if accepted by the consignee, have found that the percentage of rejections runs so high that the attempt is generally not worth the making. The millers on the other hand, so far as this record indicates, do not find it worth their while to undertake the business of ordering at first-hand from the producer or country elevator, relying on the Minneapolis market offerings for the grades they need.

While at first-hand it might seem anomalous that the transit at the "interior mill" cities is not restricted to millers, the fact that these cities are not grain markets in the sense that Minneapolis is, and the fact that grain moving in the original car to the "interior miller" is practically certain of conversion into flour, explain and relatively justify the "open transit" to the interior milling centers.

While other transit was mentioned casually without adequate evidence as to relative circumstances and conditions, complainants contrast their transit with that at Milwaukee and Chicago, and claim they are unduly prejudiced to the preference of these competitors. The transit rule at Milwaukee permits the assignment of the transit rights provided the shipments represented are actually sold and transferred before being unloaded at the transit stations. They apparently do not permit the Milwaukee miller to withdraw such wheat from an elevator and use transit thereon. This is a somewhat broader right than that enjoyed by Minneapolis, but is not as broad as is asked by complainant. It apparently has not operated to prevent the decline of Milwaukee as a milling center.

The transit at Chicago is assignable, but elevation is not permitted, and the wheat must reach the mill in the original car, and stricter policing rules are applied at Chicago than at Minneapolis. The principal witness for complainant was unwilling to say that the Chicago transit rule would be acceptable at Minneapolis.

Rates from the western grain-producing territory on the different grains and their products have been discussed by us in many cases. The markets of Minneapolis, Duluth, Milwaukee, and Chicago have been before us more than once contending for particular rates and rate relationships. In passing on these cases we have from time to time prescribed rates and relative adjustments, with the purpose of giving to those several markets not only reasonable rates, but such an adjustment as would permit each market to enjoy the benefits of its location and give all markets, as far as it could fairly be done, opportunity to buy, market, mill, and sell grain and grain products.

In the adjustments prescribed by us each market has an advantage over all the rest on grain grown in some territory, but such advantages were believed necessarily to follow from the location of that market adjacent to the particular territory on shipments from which the advantage existed, and such recognition of the benefits of location is in accord with the principles of the act.

Among the cases which dealt directly with the conditions some of which are involved in the instant case are *Investigation of Advances in Rates on Grain*, 21 I. C. C., 22; *Commercial Club of Superior, Wis. v. G. N. Ry. Co.*, 24 I. C. C., 96, 25 I. C. C., 342; *Chicago-Duluth Grain Rates*, 27 I. C. C., 216; *Board of Trade of City of Chicago v. C. & A. R. R. Co.*, 27 I. C. C., 530; *Chamber of Commerce of Milwaukee v. C., M. & St. P. Ry. Co.*, 34 I. C. C., 581; *1915 Western Rate Advance Case*, 35 I. C. C., 497, 566. In *Chamber of Commerce of Milwaukee v. C., M. & St. P. Ry. Co.*, *supra*, we quoted from the report in the *Chicago-Duluth Case*, *supra*, the following:

Removal of the discrimination that was found to exist against Duluth-Superior and in favor of Milwaukee and Chicago necessitated some increases in rates to Milwaukee and Chicago, and the reduction of the differentials Duluth-Superior over Minneapolis and over Wilmar resulted in a great many reductions in rates. The history of these rates and the proceedings before the Commission show that there has never been an adjustment that was satisfactory to the rival markets. Duluth and Superior on the one hand, Chicago and Milwaukee on the other hand, and Minneapolis in between them, each contend that any adjustment that has existed or that has been proposed by the carriers, either on their own initiative or under findings of the Commission, unduly prefers some or all of the competing markets. It is not at all difficult to pick out from any large and complicated rate adjustment apparent or actual inconsistencies, but in endeavoring to correct all such inconsistencies it is almost invariably found that as to some of them the correction of one creates others.

Further discussing the adjustment, we said:

Experiences justify the statement that it is humanly impossible to fix any adjustment of these rates that would be acceptable to the several contending markets, and equally impossible to fix any adjustment in which those interested at such markets could find no room for criticism.

As has been said, the question is almost entirely one of relationship as between these rival markets. It is not a question of fixing reasonable rates *per se* 46 I. C. C.

from a territory of production to a single market. None of these contending parties desires a strict distance tariff, and we are convinced that substantial justice demands that the tariffs now under suspension be permitted to become effective.

This proceeding is additional evidence "that there has never been an adjustment that was satisfactory to the rival markets." Perhaps only a uniform mileage scale would preclude claims of relative maladjustment, and while no market desires this system to be here applied or applied generally, eventual resort to this basis may possibly be the only outcome of reiterated complaint over a complex situation which we have repeatedly tried to adjust.

On this record we find the rates, rules, and regulations assailed have not been shown to be unlawful, and the complaint will be dismissed.

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No. 8608.

WEIS-PETERSON BOX COMPANY

v.

MOBILE & OHIO RAILROAD COMPANY ET AL.

FOURTH SECTION APPLICATIONS Nos. 2138, 2045, 1548,
1952, 458, 3965, AND 2060.

Submitted October 24, 1916. Decided October 1, 1917.

Carload rates on egg-case material in shook form from Cairo, Ill., to points in Kentucky and Tennessee found to be unduly prejudicial to Cairo to the extent indicated herein.

Ray Williams and John R. Walker for complainant.

R. Walton Moore, Charles J. Rixey, jr., and Charles D. Drayton for Mobile & Ohio Railroad Company; Illinois Central Railroad Company; Southern Railway Company; and Nashville, Chattanooga & St. Louis Railway.

Edward D. Mohr for Louisville & Nashville Railroad Company.

C. P. Stewart for Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner*:

The complaint in this case, filed by a corporation engaged in the manufacture and sale of box shooks and egg-case material at Cairo, Ill., attacks the rates on these commodities, in carloads, from that point to destinations on the Southern; Louisville & Nashville; Nashville, Chattanooga & St. Louis; and Cincinnati, New Orleans & Texas Pacific railways, in the states of Kentucky and Tennessee. These rates, stated herein in cents per 100 pounds, are alleged to be unjust and unreasonable, and to subject Cairo to undue prejudice and disadvantage in favor of Memphis, Tenn. No reparation is asked.

Two or more lines must be used from Cairo to reach points on the four carriers designated above, and to such points the rates from Cairo are now generally made by combination on certain intermediate junctions via which the distances are said in some instances to be greater than via other junctions which might be used.

Although unreasonableness is alleged, complainant's chief cause of complaint is that the rates from Cairo are unduly prejudicial to Cairo as compared with the rates from Memphis, Tenn. Rates on

this traffic from Memphis, Tenn., to destinations involved are generally through rates over one line or joint through rates over two or more lines. For example, from Memphis to Lebanon, Ky., over the Louisville & Nashville for a distance of 384 miles the rate is 15 cents; whereas from Cairo, Ill., to Lebanon, via the Illinois Central to Elizabethtown and thence via the Louisville & Nashville, a distance of 325 miles, the rate is 18.6 cents, based on the combination of 11.6 cents to Louisville and the local of 7 cents beyond. In other instances the disparity in rates from Cairo and Memphis, distance considered, is even greater than in the example above given.

We are asked to require defendants to establish and maintain through routes from Cairo to the destinations referred to, and to require the maintenance thereto of joint through rates upon the same relative mileage basis as the rates contemporaneously maintained from Memphis.

The rates from Cairo to some of the destinations are lower than those applicable to intermediate points. Accordingly portions of certain applications of defendants to continue these departures from the long-and-short haul provision of the fourth section were set for hearing in connection with this case.

The commodities involved are the different parts, cut to shape, which make up an egg case, and are shipped in shook form, knocked down, in bundles or packages. Complainant manufactures them from cottonwood and gum lumber, which are said to be woods of comparatively low value. In view of the compact manner in which the articles can be loaded in the car, occupying all the available space, the average carload is between 30,000 and 40,000 pounds. The carload minimum is 30,000 pounds. The defendants claim that the average loading is less than that on lumber generally, whereas complainant represents that it is greater than that on cottonwood lumber manufactured in standard lengths of from 10 to 16 feet which, when loaded in a box car, leaves considerable unoccupied space in front of the doors. A carload of 30,000 pounds of egg-case material in shook form is valued at about \$450, f. o. b. Cairo. Where published, lumber rates generally apply on these articles; but in the absence of specific lumber rates, class N rates apply generally throughout the southeast. The suggestion is made by defendants that the rates on these articles might very properly be higher than the rates on lumber. Whatever *prima facie* force this contention might carry by reason of the low minimum and the necessity of using box car equipment to move this traffic, the action of the carriers in substituting for class A rates the lumber rates under class N for this box material precludes the carriers from urging the impropriety of the latter

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classification as affecting the rates herein. Moreover, the classification of lumber and its products is now under investigation in Docket No. 8181, *In the Matter of Rates on and Classification of Lumber and Lumber Products*, and pending the outcome of that investigation, we are of opinion that the present relationship should not be disturbed, and our findings herein are subject to whatever conclusions may be arrived at in said investigation in so far as they may be applicable.

Cairo is an important lumber center and manufacturing point for various articles of wood. Complainant's chief competition in the distribution of cottonwood and gum box shooks and egg-case material comes from Memphis; but the same articles are also manufactured at Helena, Ark., and at various points in southeastern and central freight association territories. Memphis, located near the heart of an important hardwood lumber territory, enjoys a substantial natural advantage with respect to the raw material, whereas Cairo, located 200 miles farther north, must pay rates on the longer inbound haul of lumber. This fact is referred to by complainant to emphasize the necessity for a proper adjustment of rates on the outbound products. Complainant's total shipments to all points in the states of Kentucky and Tennessee for the 21 months ending May 1, 1916, amounted to 68 cars. It is represented further that the establishment of joint through rates from Cairo would contribute to the development of the business from Cairo in the two states referred to.

No evidence was introduced by complainant against the rates or their adjustment to points on the Illinois Central and Mobile & Ohio railroads. We do not think the record justifies requiring the Mobile & Ohio to establish or concur in joint through rates to the territory in Kentucky and Tennessee in which it does not, because of its short haul, desire to compete for this traffic; but the use of class A rates, southern classification, by the Mobile & Ohio applicable on this commodity is admittedly unreasonable, and must be replaced by the basis hereinafter prescribed.

Shipments from Cairo to points on the lines of the four defendants first named apparently move in most instances on through bills of lading; consequently certain through routes are already in operation, and we therefore hold it reasonable to require defendants herein, except as expressly excepted, to establish or, where established, to maintain joint rates to the destinations in question. The rates from Cairo to these points are commonly made on basis of the lowest combination, and on argument stress was laid upon the fact that it is frequently impossible for complainant to figure out the through rates on account of the necessary tariffs of connecting lines not being on file in Cairo. On the other hand, through rates are published

from Memphis to these destination points, even to points to which defendants urge that in some instances the rates are made on the combination basis.

It appears to us that the complaint largely arises from the fact that the Louisville & Nashville observes between Memphis and Louisville, a distance of 380 miles, the 12-cent terminal rate effective at Louisville as maximum. Thus, from Memphis, the Louisville & Nashville blankets the line from Paris, Tenn., to Louisville, a stretch of 247 miles, with a 12-cent rate. Complainant therefore urges that, if noncompetitive local points enjoy rates on this basis, the rates from Cairo to destinations on the Louisville & Nashville ought to bear a relationship not disproportionate when relative distances are considered. The Louisville & Nashville disputes the applicability of distance comparisons as determinative of rates, when its own low rates to intermediate points on its own line are held down so as not to exceed the water-compelled terminal rate. We are, however, of opinion that a carrier may not cite its literal observance of the long-and-short-haul clause of the fourth section of the act as excusing it from its legal obligation to maintain from points on connecting lines to destinations on its own lines rates which in the light of all relevant considerations are nonprejudicial to the traffic so originating on its connections. This is not to say that the distance basis which might be figured out by reason of the 12-cent rate carried as maximum for 380 miles on the Louisville & Nashville is, *ipso facto*, properly applicable on the same traffic from Cairo. The Cairo bridge, the division of revenue between several lines no less than the interchange service required between them, as well as any other material or relevant differences in operating or traffic conditions, must all be considered. But the contention of complainant is not fully met by the allegation that for the same traffic originating on connections a combination basis is indisputably appropriate, irrespective of the disparity in rates created by the combination basis as contrasted with the hauls covered by a low blanket rate. In this connection it is also proper to advert to the argument which defendants urge that the combination basis affords Cairo to destinations in Kentucky and Tennessee rates which are relatively fair to Cairo as compared with other shipping points of the same material, especially shipping points in central freight association territory. The evidence, altogether apart from the letters incorporated in complainant's brief which are not strictly of record, is conflicting as to the competitive character of the shipments made from several of the points mentioned in central freight association territory. But the essential fact is that defendant's contention fails to go to the heart of the complaint. The narrow issue is, Are rates on egg box

material from Cairo unduly prejudicial as compared with rates from Memphis, not from other points of origin? It is no answer to this averment to argue that rates on this traffic from Cairo are fairly aligned with rates on the same traffic from Vincennes, Ind., or Urbana, Ill.

The record as a whole has impressed us with the belief that joint through rates should be published from Cairo to the destinations in question, save for the exception indicated via the Mobile & Ohio; and that these rates should bear some definite relation to the rates contemporaneously maintained from Memphis. The comprehensive revisions, which the carriers represent it is their intention to make in order to eliminate or reduce the fourth section departures in the southeast, indicate that they also feel that some readjustment should be made. Defendants also asserted that the carriers' committee now working upon the fourth section situation in the southeast had not as yet touched upon the lumber adjustment, but that this feature would be taken up in the near future. They contend that until these rates are checked in by the committee engaged upon this work, the present adjustment should not be disturbed. This contention can not be permitted to defer a finding upon the present record if it appears that the existing situation is unduly prejudicial to complainant.

The record has convinced us that complainant has not sustained the allegation of unreasonableness; and the adjustment prescribed will accordingly be predicated entirely on the unduly prejudicial character of the rates from Cairo as compared with the rates applicable from Memphis.

The situation existing on each of the defendant lines will be discussed separately.

**CINCINNATI, NEW ORLEANS & TEXAS PACIFIC, AND SOUTHERN RAILWAY
DESTINATIONS.**

As the Southern Railway and the Cincinnati, New Orleans & Texas Pacific are subject to a common control, and are territorially interconnected, the rates to points on these two lines may be considered together. Practicable routes from Cairo to destinations on these lines are (1) via the Illinois Central to Louisville, the Southern Railway beyond; (2) via the Cleveland, Cincinnati, Chicago & St. Louis Railway to Mount Carmel, Ill., and Southern Railway through Louisville beyond; and (3) via the Illinois Central to Paducah, Ky., Nashville, Chattanooga & St. Louis to Stevenson, Ala., and Southern Railway beyond through Chattanooga. Shipments of egg-case material from Memphis to destinations on these two carriers via the Southern Railway generally move through Chattanooga, although a shorter route to points on this line west of Kentucky junction points is via the

Louisville & Nashville to Louisville and the Southern Railway beyond. Louisville and Chattanooga are therefore the two principal gateways via which both Cairo and Memphis traffic moves to the destinations in question. A proper adjustment of the rates to these gateways should be determinative of the proper adjustment to the destination points.

The rate from Cairo to Louisville, the northern gateway to the destinations in question, is 11.6 cents, and that in effect at the time of the hearing from Memphis to Louisville was 12 cents. The distance to Louisville from Cairo by rail is 122 miles less than that from Memphis, and something over 200 miles less than from Memphis via the water route, the competition of which is alleged by defendants to depress the rail rates from both points to Louisville. The present rate from Cairo to Chattanooga, the southern gateway to the destinations in question, is 16 cents, 4 cents greater than that applicable from Memphis at the time hearing was had. The rate northbound from Chattanooga to Cairo is 14 cents, and complainant contends that this rate should also apply in the opposite direction, particularly as the Memphis rate of 12 cents applied in both directions.

Since the hearing in this proceeding, defendants' rates from Memphis to the territory of destination have been increased. To stations on the Southern Railway east of Louisville the rate has been increased from 14.5 to 15 cents at junction points with the Louisville & Nashville, and to 19 cents at other points in that region. To destinations on the Cincinnati, New Orleans & Texas Pacific the rates from Memphis have been increased since the hearing to 19 cents.

We are of opinion and find that carload rates on egg-case material in shook form from Cairo to points on the Southern Railway in Kentucky east of Louisville, Ky., and to points on the Cincinnati, New Orleans & Texas Pacific at and north of Danville, Ky., are and for the future will be unduly prejudicial to Cairo to the extent that they exceed or may exceed rates contemporaneously maintained from Memphis to the same points; and that through routes and joint through rates should be established by the defendants herein, except the Mobile & Ohio and the Cleveland, Cincinnati, Chicago & St. Louis railways, from Cairo to points on the Southern Railway in Kentucky east of Louisville and to points on the Cincinnati, New Orleans & Texas Pacific at and north of Danville, Ky. We also are of opinion and find that through routes and joint through rates should be established by the defendants herein, except the Mobile & Ohio and the Cleveland, Cincinnati, Chicago & St. Louis railways, from Cairo to points on the Cincinnati, New Orleans & Texas Pacific south of Danville, Ky., and to points on the Southern Railway in Tennessee at and east of Chattanooga.

nooga, the rates not to exceed by more than 2 cents per 100 pounds the rates contemporaneously in effect from Memphis to the same stations. In arriving at this difference in favor of Memphis of 2 cents in the rates from Cairo and Memphis to Chattanooga and the other stations indicated on these two lines, consideration was given to the slight advantage in distance enjoyed by Memphis to these destinations, in addition to the fact that a bridge crossing is necessary in the traffic from Cairo, and the additional fact that a two and three line haul is involved from Cairo as compared with the one-line haul from Memphis to Southern Railway stations in Tennessee and the haul over allied lines to points indicated on the Cincinnati, New Orleans & Texas Pacific Railway.

NASHVILLE, CHATTANOOGA & ST. LOUIS DESTINATIONS.

There are several routes available from Cairo to points on the line of this defendant; via the Illinois Central to (1) Paducah, Ky., (2) to Martin, Tenn., or (3) to Jackson, Tenn., and the Nashville. Chattanooga & St. Louis beyond; (4) via the Mobile & Ohio to Union City, Tenn., or (5) to Jackson, Tenn., and the Nashville. Chattanooga & St. Louis beyond. On the other hand, the Nashville, Chattanooga & St. Louis is an initial line at Memphis. A general view of the location of this line with respect to Cairo and Memphis indicates that a proper adjustment to Hollow Rock Junction and Nashville should point the way to a proper adjustment to the other destinations.

The distances from Cairo to Hollow Rock Junction and all points on the main line and branches east thereof are 35 miles less than from Memphis. This difference in distance in favor of Cairo may be considered as roughly offsetting the traversing of the Ohio River bridge at Cairo. While the rate from Cairo to Hollow Rock Junction is 13 cents, the rate from Hollow Rock Junction to Cairo is 11 cents, which is 1 cent greater than that to Memphis. The rate from Cairo to Nashville is 1 cent less than that from Memphis to Nashville, but in the reverse direction the rate to both points is the same.

We conclude and find that the carload rates on egg-case material in shook form from Cairo to points on this line, Hollow Rock Junction and east thereof to but not including Chattanooga, but expressly including Nashville, are and for the future will be unduly prejudicial to Cairo to the extent that they exceed or may exceed the rates contemporaneously maintained from Memphis to the same points; that through routes and joint through rates on this traffic should be estab-

lished from Cairo to points on the Nashville, Chattanooga & St. Louis by the defendants herein, except the Cleveland, Cincinnati, Chicago & St. Louis. We further conclude that the rates from Cairo to points on this line west and north of Hollow Rock Junction towards Paducah and Hickman are and for the future will be unduly prejudicial to Cairo to the extent that they exceed or may exceed the rates contemporaneously maintained from Memphis to the same points, except that from Hollow Rock Junction to and including Paris, Tenn., the rates from Cairo may not exceed the rates from Memphis by more than 1 cent.

We also conclude and find that rates from Cairo to stations on the Nashville, Chattanooga & St. Louis south of but not including Hollow Rock Junction to and including Lexington, Tenn., will be unduly prejudicial to Cairo in so far as they exceed or may exceed the rates contemporaneously carried from Memphis to the same stations by more than 3 cents; and similarly to stations on the branch from Lexington to Perryville, Tenn.; and that to stations on the Nashville, Chattanooga & St. Louis south of Jackson, Tenn., to within 50 miles of Memphis rates from Cairo will be unduly prejudicial to Cairo in so far as they exceed by more than 5 cents the rates to the same stations from Memphis.

LOUISVILLE & NASHVILLE DESTINATIONS.

Routes from Cairo to points on this line are (1) via the Mobile & Ohio to Humboldt, Tenn., Louisville & Nashville beyond; (2) via the Illinois Central to Martin, Tenn., Nashville, Chattanooga & St. Louis to Nashville, and Louisville & Nashville beyond; or (3) via the Illinois Central to Louisville, Louisville & Nashville beyond; or (4) via the Illinois Central to Nortonville, Ky., Louisville & Nashville beyond; or (5) via the Illinois Central to Central City, Ky., Louisville & Nashville beyond; (6) via the Cleveland, Cincinnati, Chicago & St. Louis and Southern railways to Louisville, Louisville & Nashville beyond; (7) via the Illinois Central to Paducah, Nashville, Chattanooga & St. Louis to Paris, Tenn., Louisville & Nashville beyond. The latter route is the most advantageous route for the Louisville & Nashville and the Nashville, Chattanooga & St. Louis to the greater number of destinations, as those two roads are united by a common ownership interest and this route gives them all but 43 miles of the haul on the traffic routed via Paducah.

From Cairo to Louisville & Nashville stations in Tennessee south of Nashville via the lines running to Tusculumbia, Ala., and through Decatur, Ala., Nashville is the gateway. In the discussion of rates

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to points on the Nashville, Chattanooga & St. Louis it was determined that the rates on the commodities here involved from Cairo to Nashville should not exceed the rates from Memphis, and this relationship of rates was extended to points east of Nashville up to but not including Chattanooga and points beyond. This adjustment should, we find, be also extended from Cairo to points in Tennessee on the Louisville & Nashville south of Nashville via the two lines above designated.

From Cairo to stations between Nashville and Paris, Tenn., on the line of the Louisville & Nashville running through Guthrie, Ky., Paris is apparently a practicable gateway. The rate from Cairo to Paris, for a haul of 107 miles, involving the Cairo bridge, is now 1 cent less than the Memphis-Paris rate, which covers a single-line haul of 133 miles. We are of opinion, however, that the rate from Cairo to Paris may appropriately exceed the rate from Memphis to Paris by not more than 1 cent. The same adjustment should be applied to all points on the Memphis-Louisville line east of Guthrie to but not including Lebanon Junction, and to all points on the branch lines extending off the line from Lebanon Junction south to Nashville and Guthrie, but not including Nashville, these branches running from Glasgow Junction, Ky., to Mammoth Cave, Ky.; Glasgow Junction to Glasgow, Ky.; Russellville, Ky., to Adairville, Ky.; Gallatin, Tenn., to Scottsville, Ky., including the branch extending to Hartsville, Tenn. In considering the rates to stations on the Southern Railway in Kentucky east of Louisville, we decided that the rates from Cairo to such stations should not exceed those from Memphis to the same stations. This adjustment should also be applied from Cairo to Louisville & Nashville stations between Louisville and Lebanon Junction and to stations east of Louisville and Lebanon Junction and south of Cincinnati to Richmond, Ky., and to Junction City, Ky. Rates from Cairo to points on the Louisville & Nashville south and east of these two points should not exceed the rates contemporaneously applicable from Memphis to the same destinations by more than 2 cents.

The rate from Cairo to Henderson, Ky., 11.6 cents is conceded to be out of line as compared with the rate from Cairo to Evansville, 7.4 cents, which is alleged to be depressed by water competition on the Ohio River. As water competition would appear to exist at Henderson as well as at Evansville, the rate from Cairo to Henderson should not exceed the rate from Cairo to Evansville. To the other points on the line between Evansville and Guthrie, including the branch from Guthrie to Elkton, and to points on the line from Owensboro to Russellville, including the branch line from Ellmitch to Morganfield, the distances from Cairo, even taking into consideration the

Ohio River bridge at that point, are less than those from Memphis, so that the rates from Cairo to these destinations should not exceed those applicable from Memphis to the same points.

To stations on the Louisville & Nashville between Paris and Memphis, we find and conclude that rates from Cairo to points as far south of Paris as Humboldt which exceed rates from Memphis to the same points by more than 1 cent are unduly prejudicial to Cairo, and that south of Humboldt toward Memphis, to within 50 miles of the latter, rates from Cairo which exceed rates to the same points from Memphis by more than 3 cents will be unduly prejudicial to Cairo.

We are also of opinion and find that through routes and joint through rates applicable thereto on the basis above prescribed should be established by the defendants herein, except the Cleveland, Cincinnati, Chicago & St. Louis Railway, from Cairo to the stations above designated on the line of the Louisville & Nashville in Kentucky and Tennessee.

No attempt has been made in this report to fix specific rates at particular points. The rates from Cairo to representative gateways have been singled out, and their relationship to the rates from Memphis to the same gateways determined. The findings herein are confined to egg-box material in shook form, the record containing no adequate evidence with reference to the conditions surrounding box-shooks generally nor to the effect that complainant is affected detrimentally by the rates on any other commodity than egg-case material in shook form.

The fourth section applications set down for hearing herewith appear generally applicable to lumber, inasmuch as egg-case material carries generally by exception the class N, or lumber rate. We do not deem it appropriate to pass on and determine these fourth section applications in conjunction with a complaint involving only one, and that possibly a minor product of lumber. Decision on the fourth section applications heard herewith is therefore reserved for determination in a more comprehensive proceeding in connection with defendants' pending applications for relief respecting rates on lumber and lumber products from Cairo to the points of destination involved; but the findings herein having to do with the relationship of rates from Cairo and Memphis, such fourth section deviations as are now protected by applications pending or orders issued are applicable on this traffic no less than to lumber generally, and if other or further fourth section relief is required by reason of the findings herein, carriers may petition specifically for same.

An appropriate order will be entered.

No. 9075.
STATE OF IOWA

v.

WABASH RAILWAY COMPANY ET AL.

PORTIONS OF FOURTH SECTION APPLICATION No. 1948
BY W. H. HOSMER, AGENT.

Submitted January 5, 1917. Decided October 2, 1917.

Upon complaint that commodity rates between Peoria or Springfield, Ill., and Des Moines and other designated interior Iowa cities as published in western trunk line tariff I. C. C. No. A-588 are not in compliance with the fourth section order of the Commission in *Des Moines Commodity Rates*, 34 I. C. C., 281; and that they are unreasonable and unduly prejudicial; *Held*, That while the fourth section order in the case referred to has in terms been complied with, the finding of the Commission in that case has not been followed; that the maintenance of higher rates between Peoria or Springfield and the designated interior Iowa cities than between Peoria or Springfield and St. Paul is unduly prejudicial; and that the rates in other respects are not found unreasonable. Fourth section relief denied.

J. H. Henderson and *E. H. Scott* for state of Iowa.

E. G. Wylie for Greater Des Moines Committee and shippers of Des Moines.

C. O. Dawson for Commercial Club of Ottumwa, Iowa.

H. S. Sundberg for Cedar Rapids, Iowa, Commercial Club.

W. F. Dickinson for Chicago, Rock Island & Pacific Railway Company and other defendants.

A. F. Cleveland for Chicago & North Western Railway Company.

T. R. Farrell and *H. R. Brashear* for Wabash Railway Company.

L. C. Mahoney for Chicago, Burlington & Quincy Railroad Company.

C. A. Lahey for Chicago, Milwaukee & St. Paul Railway Company.

F. S. Hollands for Chicago Great Western Railroad Company.

REPORT OF THE COMMISSION.

DANIELS, Commissioner:

It is alleged in these complaints, consisting of an original and supplement, filed on the same date, that certain commodity rates

named in western trunk line tariff I. C. C. No. A-588, applicable to carload shipments between Peoria, Ill., or Springfield, Ill., and Des Moines and other designated points in the eastern part of the state of Iowa are unreasonable and unjustly discriminatory by reason of the fact that certain of the rates westbound are lower than those eastbound; that the maintenance of higher rates between Peoria and the designated Iowa cities than the rates on the same articles contemporaneously maintained between St. Louis and said cities, and of lower rates between Springfield and St. Paul, Minn., than between Springfield and Des Moines and said Iowa cities, results in undue prejudice and constitutes departures from the long-and-short-haul rule of the fourth section of the act; and that the maintenance of the rates assailed is contrary to the fourth section order of the Commission in *Des Moines Commodity Rates*, 34 I. C. C., 281.

Portions of the application of defendants for relief from the provisions of the fourth section of the act covered by application No. 1948, W. H. Hosmer, agent, were set for hearing in connection with this case.

In *Des Moines Commodity Rates*, *supra*, we had under consideration traffic moving under commodity rates from Chicago, Ill., to Des Moines. In that case, page 285, a conference was suggested between the parties in interest, which included Des Moines and numerous other interior Iowa cities, and the carriers participating in transportation of traffic between Chicago and the Iowa cities, to agree, if possible, as to proper rates to be applied on the articles named in that case as affecting cities other than Des Moines. A conference was held and an agreement could not be reached as to agricultural implements; bottles, jars, etc.; boxboard; and printing paper. Rates on these articles to Des Moines on shipments from Chicago were prescribed in *Des Moines Commodity Rates*, 36 I. C. C., 538.

Effective April 1, 1915, in western trunk line tariff I. C. C. No. A-588, the defendants published commodity rates on the articles named in an exhibit filed with the complaint from Springfield, St. Louis, and Peoria to Des Moines and other interior Iowa cities. Comparison shows that, except as to a few articles, the rates were the same as published in a previous issue of the same tariff. The complaint was filed August 12, 1916. Effective October 4, 1916, western trunk line I. C. C. No. A-704 published reduced rates on all the articles named, except one or two, from Peoria and Springfield to the interior Iowa cities.

The following table shows rates on the articles named by complainant now in effect from Peoria, St. Louis, and Chicago to Des Moines, in cents per 100 pounds, except as otherwise stated:

Article.	From Peoria.	From St. Louis.	From Chicago.	Article.	From Peoria.	From St. Louis.	From Chicago.
Acid.....	10	10	13	Packing-house products.....	15	15	20
Alumina sulphate.....	17½	17½	20½	Paints:			
Asphalt.....	10	10	10	Dry earth.....	12	12	15
Bags and bagging.....	16	16	19	Mixed.....	20½	20½	23½
Butts, etc.....	21	21	24	Paper:			
Beer.....	17	17	20	Tarred.....	10½	10½	12½
Beer packages.....	9½	9½	11	Printing.....	15	15	17
Bottles, jars, etc.....	18½	18½	21	Wrapping.....	15	15	17
Brick, enamel.....	12½	12½	16½	Corrugated.....	18	18	18
Cement, paving and roofing.....	10	10	10	Boxboard.....	13½	13½	15
Cocconut oil.....	18½	18½	21½	Tablets.....	18	18	21
Copper, sulphate.....	15	15	18	Roof coating, asphalt.....	15	15	18
Fillers, egg case.....	12½	12½	16½	Salt cake.....	12½	12½	15½
Furniture.....	22½	22½	26½	Salts, Epsom.....	17½	17½	20½
Glucose.....	15	15	18	Roller, shade or curtain.....	22	22	25
Go-carts.....	22½	22½	26½	Shells, loaded.....	24½	24½	27
Hides.....	15	15	20	Shot.....	15	15	18
Angle bars.....	9½	10	12	Sol soda.....	12	12	15
Iron and steel.....	14½	14½	17½	Soda caustic.....	12	12	15
Rails.....	9½	10	12	Soda ash.....	12	12	15
Pipe, etc.....	13½	13½	16½	Starch.....	13	13	16
Valves.....	13½	13½	16½	Stoves.....	16½	16½	19
Liquor, ammoniacal.....	15	15	18	Tri sodium phosphate.....	17½	17½	21½
Matches.....	19	19	21½	Vinegar.....	17½	17½	20½
Mill cinder, etc.....	\$1.90	\$1.90	\$2.25	Zinc, sulphating.....	15	15	18
Oil:							
Linseed.....	13½	13½	16				
Petroleum.....	19.5	19.5	23				

½ Per ton.

The rates from Peoria are in nearly every instance one-half a cent per 100 pounds lower than were in effect when the complaint was filed.

So far as we can ascertain from tariffs on file there is now no departure from the long-and-short-haul rule of the fourth section in the rate adjustment from St. Louis to the Iowa points on traffic moving through Peoria. To that extent the complaint has been satisfied. Attention is also directed to the fact that carriers agreed to observe the Des Moines rates as maxima to Ottumwa on traffic from Peoria and Springfield.

It is contended by complainant that the fourth section order of the Commission in *Des Moines Commodity Rates*, 34 I. C. C., 281, has not been complied with. In that case, page 286, we said that—

Fourth Section Application No. 1948, filed on behalf of the respondent carriers, in part seeks authority to continue commodity rates from St. Louis to Des Moines which are lower than the rates concurrently applicable on like traffic from Peoria, and also to continue commodity rates from Springfield to St. Paul which are lower than the rates on the same articles to Des Moines. Since the adjustment in the class rates from Chicago and from Peoria and Springfield to Des Moines resulting from our findings and orders in the cases repeatedly referred to in the foregoing pages those departures from the provisions of the 46 I. C. C.

fourth section have been eliminated with respect to articles moving to Des Moines under class rates, and we are of the opinion upon the record before us that such violations of that provision should be eliminated also in the case of traffic moving to the same points under commodity rates. Those features of the application will therefore be denied, and the respondents will be required to readjust all commodity rates between Peoria and Des Moines which are now in excess of the rates on the same articles between St. Louis and Des Moines through Peoria, and similarly, to readjust such of the rates between Springfield and Des Moines as exceed rates on the same commodities between Springfield and St. Paul.

The paragraph of the order that was issued in that case in response to the above finding with reference to lower rates from Springfield to St. Paul than from Springfield to Des Moines is as follows:

It is further ordered, That that portion of said application No. 1948, which asks authority to continue commodity rates from Springfield, Ill., to St. Paul, Minn., which are lower than rates contemporaneously in effect on like traffic to Des Moines, Iowa, be, and the same is hereby, denied, effective September 1, 1915.

The following table shows rates on articles named by complainant now in effect, in cents per 100 pounds, from Springfield to St. Paul that are lower than from Springfield and Peoria to Des Moines, also showing the amount of the difference:

Article.	From Peoria to Des Moines.	From Springfield to St. Paul.	Difference.
Alumina sulphate.....	17½	15½	2
Bags and bagging.....	16	14½	1½
Butts, hamps, etc.....	21	20	1
Bottles, jars, etc.....	18½	17½	1
Glucose.....	18	17	1
Angle bars.....	9½	\$1.75	15
Iron and steel.....	14½	14	½
Rails.....	9½	\$1.75	15
Matches.....	19	17½	1½
Paints, mixed.....	20½	19½	1
Paper:			
Tarred.....	10½	10	½
Printing.....	15	14½	½
Wrapping.....	15	14½	½
Corrugated.....	18	17½	½
Rollers, shades, and curtains.....	22	\$17	5

¹ Per ton.

² Southbound.

Rates on some of these articles are higher to other Iowa cities than from Springfield to St. Paul and the traffic moves through them to St. Paul.

What the defendants did in response to the fourth section order in the case referred to was to cancel the route to St. Paul on traffic from Springfield to Des Moines. They now insist that this action is a compliance with the Commission's order.

The defendants did comply with the letter of the fourth section order. Rates to Des Moines were the only ones under consideration

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and the fourth section order related only to departures from the fourth section with relation to rates to that point. Did the defendants, however, comply with the finding of the Commission as to the maintenance of the higher rates to interior Iowa cities than to St. Paul from Springfield and Peoria? In *Des Moines Commodity Rates*, 34 I. C. C., 281, 283, after quoting from page 80 of *State of Iowa v. C., St. P., M. & O. Ry. Co.*, 28 I. C. C., 76, to the effect that the maintenance of class rates from Chicago to Des Moines with reference to, or based upon, the Chicago-twin cities scale was without "reasonable regard to the extent or value of the service," we said that—

The record shows, however, that the twin city basis, formerly followed in fixing the class rates, is still used in determining the commodity rates to interior Iowa points * * *. The adherence by the carriers to the twin city basis from St. Louis and Chicago as a basis for fixing commodity rates to interior Iowa points, notwithstanding our condemnation of that basis in the case just cited (28 I. C. C., 76) with respect to class rates, results in a few commodity rates that are higher than the class rates. The carriers long since promised to correct this condition in their rate structure by canceling such commodity rates as exceed the new class rates, leaving the latter in effect; but no tariff readjusting these rates has yet been filed.

Considering what has just been shown in connection with statements made in the findings respecting the fourth section order, it was the opinion of the Commission that it was unreasonable for defendants to continue to maintain higher rates to the interior Iowa cities from Peoria and Springfield than they contemporaneously maintained from Peoria and Springfield to St. Paul. In the case referred to rates to Des Moines alone were under consideration, but an adjustment of rates from Chicago to Des Moines could not well be made except rates to the other Iowa cities were also readjusted. From Peoria and Springfield to St. Paul the short line through Iowa is not via Des Moines. It is via Cedar Rapids. When the Commission found that higher rates to Des Moines were not justified under the fourth section such a finding applied with the same force to higher rates to Cedar Rapids, Ottumwa, Oskaloosa, and Marshalltown than to St. Paul applicable to traffic moving through those points.

The order for hearing of the fourth section application in this proceeding covers rates applying eastbound from the interior Iowa cities to St. Louis and southbound from St. Paul to Springfield. At the hearing defendants stated that they had no evidence to submit as to the fourth section departures referred to in the order, and that the application for relief might be denied.

There was no justification offered, and none otherwise appears, for departures from the rule of the fourth section on north or west bound
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traffic from Springfield to the Iowa points as compared with St. Paul. The Commission found in *Des Moines Commodity Rates*, 34 I. C. C., 281, that class rates from Chicago to Des Moines should not be continued on the twin city basis. That finding was equally applicable to commodity rates to Des Moines and to all interior Iowa cities. The defendants should have readjusted their commodity rates accordingly. It was shown in that case that Iowa shippers met the competition of twin city shippers at points in northern Iowa, and that the lower rates to St. Paul operated to delimit the Iowa shippers' territory of sale.

In conformity with the finding of the *Des Moines Case* and on the facts appearing of record in this proceeding, we are of opinion and find that the maintenance by defendants of higher commodity rates to the interior Iowa cities from Springfield than they contemporaneously maintain from Springfield to St. Paul on the same articles is unduly prejudicial to the Iowa cities, and for the future the carriers defendant should be required to maintain rates on the articles named in the complaint from Springfield and Peoria to Des Moines, Marshalltown, Ottumwa, Oskaloosa, Cedar Rapids, and other main-line points in the eastern half of the state of Iowa that shall be no higher than are contemporaneously maintained by them from Springfield and Peoria to St. Paul.

We turn now to consider whether the rates are unreasonable in other respects. Complainant in great detail in exhibits filed with the complaint compares distances and rates from Peoria, Springfield and Des Moines, Cedar Rapids, Ottumwa, and Marshalltown with distances and rates from St. Louis to Des Moines and other points, and distances from Springfield to St. Paul and St. Louis to Winona, Minn., and La Crosse, Wis., and from Chicago and Peoria to the Mississippi and Missouri rivers. The contention is that rates from Peoria and Springfield to the Iowa points compared with rates from other points, such as St. Louis and Chicago, shows that the rates from Peoria and Springfield are unreasonable.

The following table gives distances as stated in complainant's exhibit, and in exhibits filed by defendants, from and to the various points:

	Miles.
Peoria to Des Moines.....	250
St. Louis to Des Moines.....	340
Springfield to St. Paul.....	487
Springfield to Des Moines.....	317
Peoria to Cedar Rapids.....	166
Peoria to Marshalltown.....	246
Peoria to Ottumwa.....	170

Witnesses in behalf of Cedar Rapids and Ottumwa filed exhibits showing the class rates from Chicago and Peoria to those points in

comparison with commodity rates, with a view to showing that the commodity rates from Peoria to the Iowa points were not made on the same basis as the class rates.

The defendants show that there is very little traffic moving under commodity rates from Springfield and Peoria and that some of the articles named do not move in carloads. It is insisted by representatives of defendants that the effort of complainant is to secure lower local rates from Peoria in order to decrease through rates to the interior Iowa cities from points east of the Indiana-Illinois state line or other points which make on the Peoria combination. The interior Iowa cities are, however, entitled as a matter of law to reasonable rates from Peoria and Springfield.

There are some important matters that do not seem to have been taken into consideration by complainant. As defined with respect to traffic on local rates to interior Iowa cities the Peoria group includes not only Peoria, but Springfield, Decatur, and Litchfield, Ill., and other points. The distance from Litchfield to Des Moines, as representative of the Iowa cities, is 358 miles, and from Decatur, 402 miles. The average distance from Peoria, Springfield, Litchfield, and Decatur to Des Moines is 340 miles, or the same as from St. Louis to Des Moines.

It is too well settled to need citation of authority that where points are properly grouped with respect to rates to common markets, distances are fairly to be computed on the average distances of the points in the group. The Wabash Railway does not reach Peoria, but it does reach Decatur and extends into Iowa from that point. A witness of the Wabash testified that Decatur is the Wabash gateway on traffic from the east to the west in the same sense as Peoria is the gateway of other lines.

It is to be noted that no complaint is here made of the commodity rates from Chicago to Des Moines and the other interior Iowa cities. After the decision in *Des Moines Commodity Rates*, 36 I. C. C., 538, the Greater Des Moines Committee filed a motion for a more specific order, alleging that some of the rates published by defendants were not in conformity with the decision. No action has been taken on that motion. The distance from St. Louis to Des Moines is but 18 miles less than the distance from Chicago to Des Moines. Local rates on both classes and commodities from St. Louis to the interior Iowa cities are materially lower than from Chicago to the same points. In a few instances rates from Peoria are less than from St. Louis. In all cases, however, the St. Louis rates are held as maxima from Peoria and Springfield. The following exhibit filed by a representative of the Chicago, Burlington & Quincy shows rates in cents per 100 pounds to Ottumwa on the articles named from Chicago, Peoria, and Springfield, the class to which the article belongs,

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the class differential, Peoria and Springfield under Chicago, and the differential the articles shown take under the commodity rates:

Article.	From Chicago.	From Peoria.	From Springfield.	Classification.	Class differential.	Commodity rate differential.
Cereal beverages.....	18	15.5	15.5	Fifth....	2	2.5
Bar fixtures.....	33	20.5	20.5	Third....	3.5	2.5
Roofing paper.....	12.5	10.5	10.5	Fifth....	2	2
Egg case fillers.....	16.5	12.75	12.75	do.....	2	2.75
Denatured alcohol.....	19	17	17	do.....	2	2
Rope.....	25	22.5	22.5	Fourth....	2.5	2.5
Iron and steel.....	14	11.5	11.5	Fifth....	2	2.5

The witness testified that he had selected only articles that actually moved in carloads to Ottumwa from the points of origin named. In some instances it will be noted that the commodity rate differentials are higher than the class differentials. Class rates from Chicago and Peoria to interior Iowa cities were fixed by the Commission in *Cedar Rapids Commercial Club v. C., R. I. & P. Ry. Co.*, 29 I. C. C., 538. It is the contention of defendants that commodity rates are now properly lined up with class rates prescribed in that case.

Numerous exhibits were filed by defendants to show that the commodity rates complained of from Peoria, Springfield, and St. Louis to the interior Iowa cities are as low as, or lower than, rates on the same articles to other points in the same general territory on shipments moving for the same or greater distances. The contention is that the exhibits demonstrate that the rates of which complaint is made are on a low basis, and may not properly be found unreasonable. It is not deemed necessary here to refer to these exhibits in greater detail. It is sufficient to state that the exhibits filed by all parties have had consideration in the light of explanations by the witnesses submitting them. From all the facts of record we are of opinion and find that the rates complained of are not shown to be unreasonable or otherwise unlawful, except as above noted.

In the supplemental complaint rates on matches, stoves, and mixed paints are named. The rate on matches from St. Louis to Des Moines is 19 cents and to the Albert Lea, Minn.-Northwood, Iowa, group the rate is 26 cents; on stoves the rate from St. Louis to Des Moines is 16.5 cents and to the Albert Lea group in Minnesota is 17½ cents and the rate to the Albert Lea group in Iowa is 16 cents. Defendants stated at the hearing that the fourth section departures would be voluntarily removed and we assume that this will be done promptly. With respect to paints, it is alleged that the mixing privilege is unduly restricted on shipments to Des Moines. The defendants assert that it is not clear in what manner the mixture is

unduly restricted. The western classification rating is fifth class on paints in mixed carloads. The fifth-class rate from Peoria to Des Moines is 19.5 cents. The Des Moines shipper has the benefit of a 19.5-cent rate on straight carloads and 20.5 cents on mixed carloads. In the classification the following paints are classified fifth class: Paints, mixed; white lead; litharge; red lead; and putty. Class C rates apply on straight or mixed carloads of barytes, dry earth paint, ground iron ore, mortar color, ocher, whiting, kalsomine, and wall finish. The class C rate from Peoria to Des Moines is 15½ cents. If the last-named paints are mixed with those first named, the rate on the mixture is 20.5 cents. This is in accordance with the familiar principle that on wide mixtures rates are made higher than on single articles or on narrower mixtures. As a general rule, the mixture applicable on shipments to Des Moines from Peoria is the same as applies from Peoria to the other interior Iowa cities. We do not find that the mixture of paints carried in defendants' tariffs is unduly restricted with respect to shipments to Des Moines.

Orders in accordance with the findings herein will issue.

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No. 6969.¹

NEW ORLEANS COTTON EXCHANGE

v.

LOUISVILLE & NASHVILLE RAILROAD COMPANY.

Submitted May 29, 1917. Decided October 1, 1917.

1. The maintenance of provisions for concentration of cotton at Atlanta, Ga., from points on the Atlanta division of the Louisville & Nashville Railroad for reshipment to south Atlantic ports and denying concentration at that point when for reshipment to New Orleans found unduly prejudicial to New Orleans. The maintenance of provisions for concentration at Montgomery and Selma, Ala., when for reshipment to Mobile and Pensacola, and the denial of such concentration at these points when for reshipment to New Orleans found unduly prejudicial to New Orleans. The maintenance of provisions for concentration at Pensacola when for reshipment to eastern cities and the denial of such concentration at Pensacola when for reshipment to New Orleans found not unduly prejudicial to New Orleans.
2. The maintenance of rates on uncompressed cotton in connection with the phrase "with privilege to carrier of compressing" not shown to have produced undue prejudice against shippers or the port of New Orleans.

¹ The report in this case also includes No. 7147, New Orleans Cotton Exchange v. Central of Georgia Railway Co. et al.; No. 7070, Same v. Southern Railway Co. et al.; and No. 8085, New Orleans Joint Traffic Bureau v. Mobile & Ohio R. R. Co. et al.; and those portions of the following fourth section applications by which authority is sought to continue lower rates on cotton from points in the states of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and in Louisiana east of the Mississippi River, to Atlantic and Gulf ports and to Ohio and Mississippi river crossings than the rates contemporaneously applicable from intermediate points: 461, Alabama Great Southern Railroad Company; 542, Alabama & Vicksburg Railway Company; 1024, Atlanta & West Point Railroad Company; 972, Atlanta, Birmingham & Atlantic Railway Company; 708, Atlantic Coast Line Railroad Company; 540, Chattanooga & Southern Railroad Company; 1447, 1448, and 1449, Carolina, Clinchfield & Ohio Railway; 1530, Central of Georgia Railway Company; 703, Charleston & Western Carolina Railway Company; 3965, Cincinnati, New Orleans & Texas Pacific Railway Company; 3918, Georgia Railroad; 2025, Georgia Southern & Florida Railway Company; 4048, Georgia Southwestern & Gulf Railroad Company; 484, Gulf & Ship Island Railroad Company; 2045, Illinois Central Railroad Company; 1952, Louisville & Nashville Railroad Company; 2234, Macon & Birmingham Railway Company; 782, Macon, Dublin & Savannah Railroad Company; 2128, Mobile & Ohio Railroad Company; 458, Nashville, Chattanooga & St. Louis Railway; 602, New Orleans & Northeastern Railroad Company; 4948, New Orleans, Mobile & Chicago Railroad Company; 1594, Richmond, Fredericksburg & Potomac Railroad Company; 1573, Seaboard Air Line Railway Company; 1548, Southern Railway Company; 3912, Tennessee Central Railroad Company; 601, Vicksburg, Shreveport & Pacific Railway Company; 915, Virginia & Southwestern Railway Company; 458, Western & Atlantic Railroad Company; 1021, Western Railway of Alabama; 2043, Yazoo & Mississippi Valley Railroad Company; 2222, Southern Railway in Mississippi; and 1555, Mississippi Central Railroad Company.

3. Rates on cotton from points on the Southern Railway within a radius of 300 miles from New Orleans found unreasonable in those instances in which they exceed 50 cents per 100 pounds.
4. Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to New Orleans and Mobile found not unduly prejudicial to New Orleans.
5. Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to south Atlantic ports on the one hand and to New Orleans on the other not shown to be unduly prejudicial to New Orleans.
6. Relief from the fourth section afforded as to rates on cotton from points on the Mississippi River and its tributaries and Mobile, Ala., to Ohio River crossings, south Atlantic ports, Gulf ports, and eastern cities.
7. Relief from the fourth section afforded as to rates on cotton from interior junction points to Gulf ports, Ohio and Mississippi river crossings, south Atlantic ports, and eastern cities via routes which are circuitous to the extent of 15 per cent or more.
8. Relief from the fourth section afforded as to rates on cotton between Gulf ports and south Atlantic ports and from south Atlantic ports to eastern and Virginia cities.
9. Relief from the fourth section denied as to rates on cotton from interior junction points to Ohio and Mississippi river crossings, Gulf ports, south Atlantic ports, eastern and Virginia cities, via all routes that do not exceed the direct lines from and to the same points by more than 15 per cent except in certain instances described in the report.

John A. Smith and *Theodore Brent* for complainant.

James F. Phillips for Chamber of Commerce of Pensacola, intervenor.

R. G. Cobb for Mobile Chamber of Commerce and Business League, intervenor.

M. P. Callaway and *Charles D. Drayton* for Nashville, Chattanooga & St. Louis Railway and other carriers.

W. A. Northcutt for Louisville & Nashville Railroad Company.

A. P. Humburg for Yazoo & Mississippi Valley Railroad Company.

C. B. Northrop for Southern Railway in Mississippi.

REPORT OF THE COMMISSION.

CLARK, Commissioner:

The cases and fourth section applications named are related, have been consolidated, and will be disposed of in one report. The New Orleans Cotton Exchange, complainant in Nos. 6969, 7070, and 7147, is a corporation, one of the objects of which is the protection of its members in all matters relating to rates on cotton. Complainant in No. 8085 is a bureau of the New Orleans Board of Trade, Limited, the New Orleans Association of Commerce, the New Orleans Cotton Exchange, and the New Orleans Steamship Association, organized for the purpose of protecting the members

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of these organizations in all matters relating to freight rates to, from, and through the port of New Orleans.

The first complaint, No. 6969, attacks the rates on cotton from points on the Louisville & Nashville Railroad to New Orleans; the second, No. 7070, attacks the rates on cotton to New Orleans from points on the Southern Railway, the Atlanta & West Point Railroad, the Western Railway of Alabama, the Alabama Great Southern Railroad, and the Northern Alabama Railway; the third, No. 7147, attacks the rates on cotton to New Orleans from points on the Central of Georgia Railway, the Atlanta, Birmingham & Atlantic Railroad, the Seaboard Air Line Railway, the Atlantic Coast Line Railroad, and a number of other railroads operating in the main through the states of Georgia, Alabama, North Carolina, and South Carolina; and the fourth, No. 8035, attacks the rates on cotton to New Orleans from points on the Mobile & Ohio Railroad, the New Orleans, Mobile & Chicago Railroad, the Meridian & Memphis Railway, the New Orleans & Northeastern Railroad, and the Alabama & Vicksburg Railway. The allegations of the complaints are similar in character and may be grouped under four principal heads:

(1) That the rates on cotton to New Orleans from points on the lines of defendants are unreasonable and excessive in and of themselves and as compared with the rates to other Gulf ports, north and south Atlantic ports, Carolina mill points, and in some instances to Memphis, Tenn., and other points; and that in many instances the rates to New Orleans are not in accord with the long-and-short-haul rule of the fourth section of the act.

(2) That the rates on cotton from points on the lines of defendants to New Orleans subject shippers and receivers of cotton at New Orleans and the port of New Orleans to undue prejudice on account of the lower rates which are maintained in some instances to other Gulf ports, in some instances to north and south Atlantic ports, and in other instances to eastern and New England milling points.

(3) That the tariffs of defendants permit concentration of cotton at Montgomery, Ala., and various other points from certain sections of their lines for reshipment, in some instances to Mobile and Pensacola, and in other instances to other ports, and fail to provide for concentration of cotton at some of these points or at other points when for reshipment to New Orleans, thereby seriously restricting and in some instances prohibiting the movement of cotton from the territory and from the points of concentration described to and through New Orleans, thereby creating an undue prejudice against shippers of cotton to New Orleans and the port of New Orleans.

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(4) That the method of publishing rates by some of the defendants under the phrase, "with privilege to carrier of compressing," or other phrase of similar import, is too indefinite, making the rates an unknown quantity and often leaving the shipper in doubt as to whether or not the cotton will be compressed at carrier's expense and also offering too great an opportunity to defendants to unjustly discriminate as between shippers and localities by compressing at the cost of the carrier the cotton of one shipper and not that of another, and by paying the cost of compression on cotton moving to one port and not on that moving to another port.

The prayers of all of the complainants ask (a) for the establishment of through rates on cotton to New Orleans from points on the lines of defendants made with relation in some instances to the rates to Mobile and Pensacola, and in other instances with relation to the rates to the south Atlantic and north Atlantic ports and other points; (b) for the establishment from points of origin on defendants' lines now enjoying concentration and reshipment elsewhere but not to New Orleans of concentration arrangements on cotton to New Orleans at the several concentration points or at other points which may not be named in the petition as concentration points; (c) that defendants be required to eliminate from their tariffs the phrase, "with privilege to carrier of compressing," or other phrase of similar import and substitute therefor "to include cost of compressing in transit," or other phrase of similar import on all rates to New Orleans, Mobile, and Pensacola out of which defendants have customarily paid the cost of compression.

The Chamber of Commerce of Pensacola intervened in No. 6969, and the Mobile Chamber of Commerce in Nos. 6969 and 7070.

The various fourth section applications of the carriers respecting rates on cotton to Gulf ports, south Atlantic and north Atlantic ports, New England points, and Mississippi and Ohio river crossings, were assigned for hearing in connection with these complaints. Rates are stated in cents per 100 pounds.

The presentation and disposition of these cases have been delayed because of several postponements had at request of complainants.

Evidence was presented in November, 1914, by certain carriers in support of the then existing adjustment and by other carriers in support of a new adjustment from certain territories which in part may be described as follows:

CENTRAL OF GEORGIA RAILWAY.

From all points on this road it was proposed to publish joint through rates to Mobile and New Orleans. These rates from local points were usually, but not invariably, lower by from 1 cent to 10

cents than the then existing rates, which were generally made on combination. The proposed rates from junction points were higher than the then existing rates by from 2 cents to 10 cents. The general result was a reduction in the rates to Mobile and New Orleans and an alignment of the rates more nearly in accord with the fourth section. The proposed rates to Mobile were from 5 cents to 7 cents lower than to New Orleans.

SOUTHERN RAILWAY.

The rates to Mobile and New Orleans from all points on the Atlanta division of the Southern Railway between Chattanooga and Atlanta were to be reduced 5 cents. From points on the Attalla branch between Rome and Gadsden the rates to New Orleans were to be reduced 7 cents and to Mobile were to be increased 1 cent. From local points on the Memphis division between Stevenson and Decatur, Ala., the rates to both Mobile and New Orleans were to be reduced 3 cents. From other points in Georgia, Alabama, and Tennessee reductions were proposed of from 1 cent to 7 cents, and from still other portions of the road increases were proposed of from 0.5 cent to 7 cents. The general effect of the changes proposed was a more uniform alignment of the rates, but the effect upon their general level was almost negligible. The proposed rates to New Orleans were usually 5 cents higher than to Mobile, but the rates from points on the Mobile division south of Calera to York, Ala., on the Akron branch from Akron to Marion Junction, and on the Mobile division between Selma and Mount Vernon, Ala., were 10 cents higher to New Orleans than to Mobile. From points on the North Alabama Railway between Sheffield and Parrish, Ala., the proposed difference was 5.5 cents.

Other changes in rates were proposed by lines reaching other territories, which it is unnecessary now to recount. There was then pending a complaint by the Mobile Chamber of Commerce et al., respecting the reasonableness of the export cotton rates to Mobile from all points in the southeast located on the Mobile & Ohio Railroad, the Central of Georgia Railway, and other lines traversing the states of Tennessee, Mississippi, Florida, Georgia, and Alabama. Our report in that case, 32 I. C. C., 272, summarized two of the causes of complaint as follows:

8. That the defendants apply rates to Mobile that are much greater for the service performed than the rates charged from the same points to Savannah, an equal or greater distance; that the Mobile rates are therefore discriminatory.

10. That defendants have refused to establish through routes and joint rates applicable from many points in Mississippi, Tennessee, Alabama, Georgia, and Florida to Mobile on export cotton.

Respecting these two contentions we stated, pages 276, 277:

From the territory east of a line drawn through Decatur, Birmingham, and Montgomery defendants, Atlantic Coast Line, Central of Georgia Railway, and Seaboard Air Line, from the Atlanta and Birmingham Air Line division and the Georgia and Alabama division, do not join in through routes or publish joint rates from certain cotton-shipping points local to their lines to Mobile. The same situation prevails from points on the Illinois Central and the Yazoo & Mississippi Valley railroads, excepting three points, where there is competition with the Southern Railway in Mississippi. This situation, in conjunction with the "penalty-rate system," we find produces a discriminatory condition of affairs prejudicial to the port of Mobile, and it will be expected that the carriers serving compress points from points of origin shall join with the carriers from such compress points serving Mobile in the establishment of through routes and joint rates from such point of origin to Mobile. Such an arrangement in no wise comes within the limitation of the Commission's power to establish through routes, inasmuch as it is expected that the originating carrier gets the haul over the full length of its line between the point of origin and such port. The consequent benefit to Mobile shipping from such an arrangement is minimized by the defendants; nevertheless the port of Mobile is justly entitled to the competitive advantage that will accrue to her from such a competitive arrangement, and the shippers in the interior are entitled to the wider market which this arrangement will create.

It appears further that from points of origin situated on the Southern Railway, Central of Georgia Railway, Seaboard Air Line, Atlantic Coast Line, and Nashville, Chattanooga & St. Louis Railway, and other lines in the territory lying east of a line drawn through Decatur, Birmingham, and Montgomery, Ala., the export cotton rates to Savannah are on a lower basis than the corresponding rates to Mobile. The mileages to Savannah are greater in many instances than to Mobile, but there are only a few instances where the rate to Mobile is less than that to Savannah, and in some instances, where the distance against Savannah is large, the rates are on a parity. Some of these maladjustments on the Southern Railway are very pronounced, as, for example: The distance from Weems to Mobile is 276 miles and the rate 50 cents, while the distance to Savannah is 453 miles and the rate is only 45 cents. From Shelby Springs to Mobile the distance is 229 miles, with a rate of 45 cents, which does not include compression, and the distance to Savannah is 448 miles, with a rate of 47 cents, which does include compression. It is fair to say that the representative of the road carrying these rates did not attempt to defend them and admitted a readjustment was needed.

It is the conclusion of the Commission from a consideration of all the circumstances presented that the adjustment of these export cotton rates from points of origin to Mobile is unjustly discriminatory to the prejudice of that port as compared to the respective rates to the port of Savannah, and the defendants who participate in these rates will be required to readjust them, eliminating the discrimination here found to exist.

The readjustment of rates responsive to that decision resulted in certain notable changes in the rates to Gulf ports. The resulting rates to Mobile, however, are apparently not altogether satisfactory to Mobile, for the Mobile Chamber of Commerce filed a petition for reopening the case seeking a new and amended order respecting export rates from the territory which may be approximately de-

scribed as lying east of a line through Decatur, Birmingham, and Montgomery and west of points which are substantially equidistant from Mobile and Savannah on the railroads traversing the states of Alabama and Georgia. That petition was granted, further hearings have been held, and the case now stands for disposition.

Further hearings in regard to the New Orleans complaints and the fourth section applications were held at New Orleans in October and November, 1916. The complainants supplemented their former evidence with respect to Nos. 6969, 7070, and 7147 and presented evidence in No. 8035. At these hearings the carriers presented a proposed modified schedule of rates in lieu of the rates proposed in 1914 and presented their defense of the fourth section departures incident to the establishment of these rates.

GENERAL CONDITIONS.

It was shown by complainants that the cotton produced in the territory south of the Ohio and east of the Mississippi rivers for the nine years 1905 to 1914 totaled 62,855,827 bales. The production by states was as follows:

	Bales.
Mississippi.....	11, 509, 324
Alabama.....	11, 700, 126
Georgia.....	17, 918, 724
Florida.....	619, 930
Tennessee.....	2, 939, 896
North Carolina.....	6, 899, 122
South Carolina.....	11, 131, 119
Virginia.....	137, 586

The total consumption within the territory during the same period was 22,035,716 bales. By states it was as follows:

	Bales.
Mississippi.....	309, 348
Alabama.....	2, 265, 688
Georgia.....	5, 003, 064
Tennessee.....	635, 747
South Carolina.....	6, 209, 656
North Carolina.....	6, 841, 950
Virginia.....	710, 263

The mills of North Carolina evidently fabricate almost as much cotton as the state produces, while the Virginia mills fabricate five times as much as is produced in that state. During the nine years referred to the remainder of the cotton produced in these states, amounting to 40,820,111 bales, was shipped out of the territory. That shipped out via the Ohio River crossings or via the ports to northern mill points or to foreign countries has averaged 4,535,566 bales per year. It is for the purpose of securing what New Orleans

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considers its share of this cotton shipped out of the territory of production that these complaints have been brought. During the nine-year period mentioned the receipts of cotton at the ports were as follows:

	Bales.
New Orleans -----	17, 229, 042
Mobile and Pensacola -----	4, 227, 784
Savannah -----	14, 378, 708
Brunswick -----	2, 281, 786
Charleston -----	2, 410, 075
Wilmington -----	3, 572, 416
Norfolk -----	5, 668, 190

The evidence indicates some movement of cotton to the Gulf ports from Texas, Arkansas, and Oklahoma, but the amount thereof is not shown. The above statement shows that New Orleans received practically 80 per cent of all the cotton shipped to the three Gulf ports named. It shows also that the receipts of cotton at New Orleans were greater than at any other port and nearly as much as the combined receipts at Savannah, Brunswick, and Charleston. During this same nine-year period the Louisville & Nashville Railroad delivered 197,517 bales of cotton at New Orleans and 670,056 bales at Mobile.

We shall group the contentions of the New Orleans complainants under four principal heads: First, concentration; second, method of publishing rates; third, unreasonableness of rates; fourth, undue prejudice to New Orleans as compared with other ports.

CONCENTRATION.

The evolution of the cotton business in the south has resulted in the establishment of a large number of interior concentration points. These are quite often, but not always, located at junction points of two or more railroads. Cotton buyers or their agents at these points purchase cotton in surrounding territory. Cotton generally moves into such points in a flat or uncompressed state by wagon, river, or rail. It is there compressed, assorted, and graded and subsequently reshipped, usually in round lots of 50 bales or more, to a mill point or to a port for reshipment to a mill point or for export. For example, Montgomery is a concentration point for cotton shipped from certain sections of the Louisville & Nashville and other railways. A shipment of cotton, originating at Elmore, Ala., and concentrated at Montgomery, pays the local rate Elmore to Montgomery. But if it is reshipped from Montgomery to Mobile, upon surrender of the inbound freight receipt the shipper is allowed such a readjustment of the freight charges as makes the total charges on the

shipment equal to those that would have accrued had the shipment moved directly from Elmore to Mobile. These concentration points are also compression points, and under certain rates, hereinafter more fully described, the cost of compression, which varies from 8 cents to 12 cents per 100 pounds, is usually absorbed by the carriers. This is done upon the theory that the decreased space in the car which the compressed cotton occupies results in an economy of transportation and equipment sufficient to warrant the absorption.

These concentration points serve a threefold purpose. First, they constitute the markets for the cotton growers; second, they constitute convenient places for assembling, sampling, grading, and compressing the cotton and its subsequent sale to mill points or to foreign buyers; and third, the assembling at the concentration points enables the railroads to make up at these points carloads of cotton for reshipment. Cotton that is grown at points between a port and the nearest interior concentration point is, if shipped to the port, usually but not always moved in an uncompressed state. The concentration points are so located that cotton from the area from which concentration is allowed at that point usually moves in the direction of its ultimate destination. From some of the territory the concentration rules are so constructed as to give the shippers from local points the opportunity to concentrate their cotton at least at two points with subsequent opportunity of reshipment on an equality of rates. This involves, in some instances, back hauls or hauls of the uncompressed cotton to concentration points in a direction opposite to that of ultimate destination. Complainants call attention to Louisville & Nashville tariff I. C. C. A-12689, providing rules and regulations governing concentration and reshipment of cotton at Montgomery and Selma, Ala. Rule 12 of this tariff shows that cotton may be concentrated at Montgomery or Selma from a large number of surrounding stations for reshipment to eastern or New England points or to Mobile or Pensacola via the route of the Louisville & Nashville and its connections, but does not provide for concentration when for reshipment to New Orleans. Cotton originating at certain stations east of Pensacola can be concentrated at Pensacola for reshipment to Baltimore and other eastern points via the line of the Louisville & Nashville and its connections but can not be so concentrated for reshipment to New Orleans. Cotton originating on the Atlanta division of the Louisville & Nashville can be concentrated at Atlanta for reshipment to south Atlantic ports, Virginia cities, or eastern points, but not for reshipment to New Orleans. The representative of the Louisville & Nashville announced the willingness of that company to so modify its concentration rules as to permit the concentration of

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cotton at Montgomery and Selma when for reshipment to New Orleans.

He stated that their rules do not permit concentration of cotton at Atlanta for reshipment to any Gulf port for the reason that the line of the Louisville & Nashville does not afford any reasonably direct route from Atlanta to any Gulf port. He stated also that the rules do not permit concentration at Pensacola or any Gulf port for reshipment to any Gulf port, and asserted that if the rules were so amended as to permit of this concentration at Pensacola for reshipment to New Orleans it would not result in such reshipment of cotton unless New Orleans cotton buyers established an agency at Pensacola, which, under the circumstances existing, could not result in securing enough cotton to render such an agency advisable. He asserted that no interest of the carrier would be served by such a concentration arrangement at Pensacola or Atlanta, but, on the contrary, added expense would be incurred. He explained that concentration had been permitted at Pensacola on cotton from some of the eastern divisions for reshipment to eastern points in order to enable his road to compete for the handling of this cotton with other roads operating in the same territory.

It does not appear that any undue prejudice against New Orleans or shippers of cotton to that port results from the fact that the rules of the Louisville & Nashville permit concentration of cotton at Atlanta from certain divisions of its line when for reshipment by that line to eastern destinations while refusing such permission on cotton reshipped to New Orleans. It does, however, appear to be unduly prejudicial for the Louisville & Nashville to allow concentration at Atlanta for reshipment to south Atlantic ports which its line does not reach and refuse to allow concentration at Atlanta for reshipment to New Orleans. We can see no good reason for requiring concentration at Pensacola for reshipment to Mobile or New Orleans and no likelihood of discrimination between individuals or communities by reason of the fact that concentration is allowed at that point for reshipment to northern mill points and not allowed for reshipment to New Orleans. The carrier has corrected, or will correct, the concentration rules applying to cotton concentrated at Montgomery and Selma, permitting the reshipment of this cotton to New Orleans as well as to Mobile and Pensacola. Complainant states in its brief:

We ask in these proceedings the establishment of no new arrangements in any directions where none now exist. We do, however, ask for the benefit of these privileges in the operation of our rates wherever they apply to any other south Atlantic or Gulf port. We desire at Birmingham, for illustration, to be able to draw cotton in from as broad a local territory of origin and on
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as favorable terms as it can be drawn in and reshipped, say, to Savannah or to Mobile. Wherever in this cotton-producing territory under consideration through rates exist to the south Atlantic and Gulf ports we want incorporated in our rates as favorable concentration arrangements as apply to the most favored south Atlantic or Gulf ports.

Complainant has failed on brief and in evidence to point out any instances, except the ones noted above, in which the rules are less liberal respecting the concentration of cotton when reshipped to New Orleans than when reshipped to other Gulf or south Atlantic ports.

"CARRIERS' PRIVILEGE" RATES.

Complainants attack the carriers' practice of publishing rates on cotton in connection with the phrase "uncompressed with privilege to carrier of compressing." It is alleged that the use of this phrase produces a certain degree of uncertainty and indefiniteness as to what is included in the rate. It is urged also that a rate so published makes it possible for the carrier at its option to compress the cotton of one shipper at the carriers' expense, while failing to compress that of another shipper from the same station, or to compress the cotton destined to one port and to refuse to compress that destined to another, thereby unjustly discriminating against individuals or communities. Complainants were unable to point to any instance of discrimination against individuals or ports by reason of this method of publishing rates. A number of cotton brokers and buyers testified for the complainants respecting the methods by which the cotton business is handled, but none of them gave any evidence relative to any inconvenience or disability or uncertainty arising therefrom. When called upon for an instance in which discrimination or inconvenience had arisen in this connection one cotton buyer cited a shipment upon which the shipper had paid the compression charges, but the shipment moved from Georgiana, Ala., a point south of Montgomery, from which the rates have in all instances applied only upon cotton which goes through to destination uncompressed, and the rates from this point are not subject to any charge of indefiniteness or uncertainty.

It is inferable from the evidence that a large part of the cotton originating on the lines in the southeast and moving to the ports through interior compression points moves on "carriers' privilege" rates and is compressed at the expense of the carriers at some concentration and compression point before reaching the ports. It is shown that for the year ended August 31, 1914, from points of origin on the Southern Railway, 188,842 bales moved to the ports, were concentrated and compressed at interior concentration points

and the compression was paid for by the carriers. Twenty-four thousand three hundred and seventeen bales moved from points on the Southern Railway to the ports through interior compression points and were compressed at the expense of the carriers. Seven thousand two hundred and six bales moved to the ports from points on the same railway through interior compression points and were not compressed before reaching the ports. If they were subsequently compressed the cost of compression was paid by the owners. Complainant asserts that the owners of these 7,206 bales were discriminated against in that they received this cotton at the ports in an uncompressed state, and if subsequently compressed it must have been done at the owners' expense, while the owners of other cotton received it at the ports in a compressed state, the compression cost having been paid by the carrier.

It should not be concluded from these figures that the proportion of the cotton that is compressed at the shippers' expense is small. A large part of the cotton originating in territory between interior compression points nearest to the ports and the coast moves to the ports uncompressed. For example: Most of the cotton originating at points on the Louisville & Nashville south of Selma and Montgomery moves to the ports in an uncompressed state. Compression is not paid by the carriers on cotton from points north of Charlotte, N. C., moving to Charleston or Savannah, although in some instances it may pass through compress points en route to these ports. Cotton from nearly the whole state of North Carolina that moves to Norfolk or Wilmington is compressed at these points at the expense of the shipper. Under rates to interior southern mills published subject to "carriers' privilege" of compression, such privilege is seldom exercised except for the longer hauls. The Georgia Railroad hauls approximately 150,000 bales of cotton per annum, but participates in the expense of compression on about 20,000 bales. In the year ended June 30, 1910, 1,850,000 bales were produced in the state of Georgia, of which 800,000 bales moved to destination uncompressed. Of the balance, 290,000 bales were compressed at the compresses of the Atlantic Compress Company at the expense of the shippers. During the same year the Atlantic Coast Line handled in North Carolina and South Carolina 567,602 bales upon which no compression allowance was paid and it paid for compression of 56,841 bales, or approximately 9 per cent of the total. Complainant asks us to conclude that the rates as they stand were designed to include in all instances the cost of compression. It is evident, however, that in the year 1910 more than 1,000,000 bales from the state of Georgia alone moved to destinations under rates out of which the carriers did not pay the cost of compression. The evidence does

not indicate that there has been any material change in the direction of movement or the handling of cotton in the years subsequent to 1910. The carriers assert that if out of their present rates they were required in all instances to absorb the cost of compression their revenues from the cotton traffic would be seriously depleted.

The evidence shows that the movement from the various points of origin to the concentration points is nearly always in less-than-carload quantities. The following table as to representative points in Alabama on the Southern Railway states the number of bales shipped from each station during the year 1914, the average shipment offered, the number of cars required to move the shipments, and the average number of bales per car:

From—	Number of bales shipped.	Average shipment, bales.	Number of cars required.	Average number of bales per car.
Alberta.....	850	4.1	35	24.28
Catherine.....	1,172	3.3	45	32.71
Conopa.....	655	2.2	51	12.84
Faunsdale.....	4,779	15.31	156	30.63
Greensboro.....	5,025	35.63	155	32.41
Oakenburg.....	1,051	3.56	49	21.44
Hamburg.....	450	2.14	16	28.12
Montevallo.....	2,019	4.8	60	33.65
Plantersville.....	751	2.93	108	4.95
Randolph.....	1,637	4.21	80	20.46

Birmingham is a large concentration point. During 1914, from points on the Southern Railway 22,822 bales were concentrated at Birmingham, moving in 888 cars, or an average of 25.7 bales per car. Seventy of these cars contained 10 bales or less. One hundred cars contained over 10 and not over 20 bales. Four hundred and eighty-seven cars contained over 20 and not over 30 bales. Two hundred and thirty-one cars contained over 30 bales. The cars used would hold 50 of the uncompressed bales, but the conditions under which the cotton is offered for shipment apparently seldom permit a full carload. It would appear that although publishing a full line of "carriers' privilege" rates to New Orleans and other Gulf ports from all stations at which cotton is produced north of the most southerly interior compression points, these rates are not primarily designed with a view to a through movement with compression in transit at some intermediate point. They seem to be more particularly designed with a view to their use in connection with a local less-than-carload movement to a concentration point, compression thereat, and a subsequent movement, usually in carloads, from the concentration point to a port or mill point. Under these circumstances the compression charge is paid by the carrier. Where a shipment is offered at a local point in an uncompressed state destined to a port the carriers

desire to reserve to themselves the right to compress the shipment or not as their convenience may demand. If there should be a large empty car movement in the direction in which the cotton is moving, the saving of car space by compression in transit may be of little consequence to the carrier. As the season wanes shipments are more scarce and it would frequently happen that a single lot consisting of but a few bales would require a car to the compression point and a car from the compression point to the port. A car is said ordinarily to be in use three days from the time it is started to the loading point until it is loaded and moved to the primary market. If it is there switched to the compression point another day must be allowed for that service and for compression. Taking Selma, Ala., as an illustrative compression point, it is asserted that to switch the cotton from the compression point, get it in trains, and take it to New Orleans would consume at least three days, and two more days of free time must be allowed at New Orleans before the car starts back in service. On the direct movement from the point of origin of the cotton to New Orleans usually two days' less time would be required and the switching service to and from the compress would be eliminated. Unless by compression at Selma this cotton can be consolidated with other cotton and a saving of car space effected there is no object from the standpoint of the carrier for compressing it.

The compression is not a transportation service for the shipper. No obligation rests upon the carrier to perform the service or to pay for it if it is performed by shippers. The rates apply on uncompressed cotton with the understanding that if, for the carrier's own purpose, namely, to economize transportation and car space, it sees fit to compress the cotton en route to destination it is authorized so to do at its own expense. As we have seen, a large part of the cotton is concentrated at concentration points in the interior, graded, compressed, and subsequently moved out in round lots of 50 or 100 bales. To movements of this character the rates described apply from point of origin to ultimate destination. No question can arise as to discrimination between individuals or localities in the application of the rates to such cotton.

It is only when the shipment is offered in an uncompressed state at a local point consigned to a port or mill point and passing en route through a compression point that the carrier really exercises any option about compressing or not compressing. One market has objected to the rates as published upon the ground that they may be so applied as to unjustly discriminate between individuals or communities. That they have been so applied is not alleged. The carriers assert that if the complainants' petition is granted and they are re-

quired to publish their rates in such manner as to absolutely and unqualifiedly obligate themselves to compress cotton in transit at their own expense irrespective of the size of shipment offered, time of offering, or the availability of equipment the result will be that each shipper having but a few bales to ship can demand the handling of his cotton to the compression point, its compression thereat, and subsequent reshipment to the port irrespective of the convenience of the carrier or the conservation of its equipment. The prayer of the complainants, however, seeks an order requiring the defendants "to eliminate from their tariffs the phrase 'with privilege' to carrier of compressing, or other phrases of similar import, and substitute therefor 'to include the cost of compressing in transit,' or other phrase of similar import, on all rates to New Orleans, Mobile, and Pensacola, out of which defendants have customarily paid the cost of compression." The carriers have not customarily paid the cost of compression on cotton delivered to them uncompressed at stations south of the most southerly interior compression points consigned directly to these ports. They have customarily paid the cost of compression on some, but not all, of the cotton delivered to them uncompressed at points north of the most southerly compression points consigned to the ports. If they compressed the cotton en route to the port or had it compressed, they paid the cost. As to whether or not they should compress a given shipment, they have been guided by the size of the shipment, the availability of car space, the direction of empty car movement, etc. It is impossible from the record before us to formulate into any tariff rule the various conditions of car supply, size of shipment, time of offering, and other considerations that appear to guide defendants in compressing or not compressing in transit a given shipment. Should we require each of these defendants to state in its tariffs the circumstances under which compression would be performed and paid for by it, it would satisfy these complaints, but we are by no means certain that the rules thus formulated would be more satisfactory to shippers, or even to complainants, than the methods now in vogue. What complainants appear to desire, as indicated in part by their evidence and by their brief, is that we shall in effect require the carriers to absorb out of their present rates to the Gulf ports the cost of compression, whether the cotton originates north or south of the most southerly compress points and irrespective of whether or not it is compressed before or after it reaches the port. To this we can not assent. In *Inman, Akers & Inman v. A. C. L. R. R. Co.*, 32 I. C. C., 146, a complaint was directed against the practice of the Atlantic Coast Line Railroad Company of absorbing out

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of the rates to certain Atlantic ports the cost, in whole or in part, of compression at the ports. We there held:

The service rendered is, therefore, in no sense "connected with the transportation" and such being the circumstances, it is plain that there is no authority in this Commission to establish any charge for such service, and it can but follow, therefore, that there is no warrant in law for such an allowance. It is the conclusion of the Commission, therefore, that the practice of allowing for compression at the ports, after the transportation service of the railroad is terminated, is unlawful and must cease.

Without positive and convincing proof of unlawful discrimination in the exercise of the right claimed by them to determine in each instance whether or not they will compress a given shipment we would hesitate to condemn a practice which has developed with the business and which seems to be in many respects adapted to the peculiar conditions which govern the handling of cotton. These "carriers' privilege" rates as applied in this territory to shipments to Gulf ports have not been shown to result in undue prejudice against shippers of cotton or the port of New Orleans.

The avowed purpose of the "carriers' privilege" is conservation of transportation and equipment. Under proper exercise of the "privilege" that purpose can be promoted and secured. Our finding is not to be misunderstood as justifying failure to properly exercise the privilege when by so doing the available car supply is appreciably unfavorably affected.

REASONABLENESS OF THE RATES.

At the time of filing the first three complaints no through rates were published to New Orleans from certain local territory along the lines of the railroads traversing Georgia and parts of Alabama and having their eastern termini at the south Atlantic ports. Through rates were published to New Orleans from some of the junction points on these lines, and rates from local stations were made by combination on junction points. This arrangement resulted in a very irregular and ragged line of rates, which the carriers have remedied, or propose to remedy, by the publication of through rates to New Orleans from practically all points in the cotton-producing territory in Georgia, Alabama, and Tennessee. One of what might be called the key rates for cotton in the southeast is that from Atlanta to Savannah. The distance is 294 miles by the single-line route of the Central of Georgia. The short-line distance is 261 miles via the Southern Railway from Atlanta to Macon, the Macon, Dublin & Savannah from Macon to Vidalia, and the Seaboard Air Line from Vidalia to Savannah. For this haul the Georgia commission has authorized a 45-cent rate. The distance from Atlanta

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to Brunswick is, however, 275 miles, and for this distance the same commission authorized a rate of 43 cents. The carriers operating lines between Savannah and Atlanta have equalized at Savannah the Brunswick rate. The distance to Charleston from Atlanta is 309 miles, but the carriers have seen fit to keep these three ports on a parity so far as Atlanta is concerned, resulting in a 43-cent rate to all three ports. The Georgia commission selected a rate of 45 cents, then in effect between Atlanta and Savannah, as the basis for the Georgia scale and authorized rates for distances greater than 300 miles constructed by adding to the 45-cent rate applicable for a distance of 300 miles 1 cent for each 10 miles of additional distance and for distances of less than 300 miles by subtracting 1 cent for each 10 miles of decreased distance. The scale constructed by the Georgia commission, using the distance between Atlanta and Savannah and the rate of 45 cents as a base, has been modified to meet competition in many instances. Complainants have filed an exhibit showing the rates and ton-mile earnings on cotton from nearly 600 stations on the Southern Railway to New Orleans and to Charleston. The purpose of this exhibit is to show that the Southern Railway maintains as a rule lower rates to Charleston than to New Orleans for like distances. The summary of this exhibit is as follows:

	To New Orleans.		To Charleston.	
	Number of stations.	Average ton-mile earnings.	Number of stations.	Average ton-mile earnings.
		<i>Cents.</i>		<i>Cents.</i>
200 to 299 miles	52	4.81	22	3.24
300 to 399 miles	124	5.11	161	3.55
400 to 499 miles	161	2.40	136	2.34
500 to 599 miles	194	2.14	206	2.14
600 to 699 miles	31	1.90	58	1.90

The Southern Railway reaches Charleston via its own line but does not so reach New Orleans. It appears, however, that so far as distances in excess of 400 miles are concerned the rates to New Orleans are not materially higher than the rates to Charleston for corresponding distances. Some of the rates to New Orleans for distances between 200 and 400 miles are apparently from 20 to 30 per cent higher than the rates to Charleston for corresponding distances. These rates are from stations on the Akron branch of the Southern Railway, Marion Junction to Evansville, Ala., points between Selma and Mobile, points on the Mobile division, Hardy Kiln to Coatopo, Ala., points on the Birmingham division, Sparks Gap to Wilton, Ala., from which a 55-cent rate applies to New Orleans

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for distances that are from 168 to 385 miles, and points on the Birmingham division, Graves Mines to Black Creek, Ala., from which a 58-cent rate applies for distances from 304 to 396 miles. In our opinion these rates to New Orleans, although for two-line hauls, are unreasonable to the extent to which they exceed 50 cents for hauls of 300 miles or less.

Another exhibit contrasts the rates to New Orleans from stations on the Louisville & Nashville, Flomaton to Elkmont, Ala., with the rates made for corresponding distances by the Atlantic Coast Line from points between Patterson, Ala., and Montgomery, inclusive, to Charleston. This exhibit shows that from 40 stations on the Atlantic Coast Line the average ton-mile earning is 2.79 cents to Charleston and from 40 stations on the Louisville & Nashville 3.58 cents to New Orleans. The new adjustment proposed by the Louisville & Nashville at the hearing shows substantial reductions in the rates from these stations, and the rates now proposed compare favorably with those of the Atlantic Coast Line.

But little evidence was offered by complainants directly in support of the allegation that the rates to New Orleans from many points on the lines of defendants are unreasonable. The changes in rates that have been made or are now proposed, resulting in through rates to New Orleans from practically all cotton-producing territory in the states of Georgia, Alabama, and Tennessee and the reduced rates made or offered by the Louisville & Nashville have gone and go far to meet the demands of complainants. Such general evidence as was offered in support of the allegation of unreasonableness of rates is inconclusive as to any rate or set of rates except those from Southern Railway stations distant 300 miles or less from New Orleans.

UNDUE PREJUDICE TO NEW ORLEANS.

From points on the Mobile & Ohio, the New Orleans, Mobile & Chicago, the Southern, the Central of Georgia, and various other lines operating through territory north of the Alabama & Vicksburg Railway and on and east of the line of the New Orleans, Mobile & Chicago Railroad the rates to New Orleans are ordinarily 5 cents higher than to Mobile. From points on the Mobile & Ohio south of Meridian, on the Southern Railway south of Calera, and on the Louisville & Nashville south of Monmouth, Ala., the rates to New Orleans exceed the rates to Mobile by from 6 cents to 20 cents. Cotton coming to New Orleans from points north of the Alabama & Vicksburg or from points east of the line of the Louisville & Nashville from Montgomery to Mobile comes through the gateways Jackson, Meridian, Montgomery, or Mobile. Mobile has a geographical

advantage over New Orleans of 139 miles on all traffic passing through Montgomery or Mobile on its way to New Orleans and an advantage of 65 miles on traffic via Meridian. This geographical advantage on cotton coming from the territory on and east of the New Orleans, Mobile & Chicago Railroad has been the chief reason offered why the carriers have accorded lower rates to Mobile than to New Orleans and desire to continue so to do. Complainants urge that New Orleans should be put on a parity with Mobile as to all territory distant 200 miles or more from Mobile and that the differentials now applied in favor of Mobile as to territory less distant than 200 miles should be less than they are. They show that many of the rates on classes and commodities are the same to New Orleans as to Mobile from St. Louis, Cairo, and Paducah, and that the rates to these two ports are the same on many commodities from Milan, Humboldt, Jackson, Memphis, Nashville, Harriman, Knoxville, and Chattanooga, Tenn., from Corinth, Miss., from points in the northern part of Alabama, Sheffield, Tuscumbia, etc., from Rome, Dalton, Lindale, Atlanta, Augusta, Athens, Macon, Milledgeville, and Columbus, Ga., and from Birmingham, Attalla, Gadsden, Opelika, and Montgomery, Ala. They urge that cotton rates to the port of New Orleans from points on certain lines in Texas are on a parity with the rates to Galveston and say that in *Aransas Pass Channel & Dock Co. v. G., H. & S. A. Ry. Co.*, 27 I. C. C., 403, we held that Port Aransas should be put on an equality with other Texas ports, although in some instances the distances were greater to Port Aransas than to other Texas ports. This is not a correct statement of our finding in the case cited. We required the removal of undue prejudice against Port Aransas by the establishment of rates to that port which should not exceed the rates for like distances to other Texas ports.

Defendants show that the rates on cotton from a large part of the state of Mississippi reached by the Illinois Central and the Yazoo & Mississippi Valley railroads to New Orleans are not higher, and often are lower, than to Mobile. The Mobile & Ohio shows that the rates on certain classes and on many commodities from a large part of the territory it serves are less to Mobile than to New Orleans. This defendant also shows that of the total movement of cotton from points on its line to Mobile and New Orleans for the five years ended August 31, 1916, New Orleans received 221,847 bales and Mobile but 165,406 bales. For the year ended August 31, 1916, 7,574 bales moved from Mobile & Ohio points to Mobile and 31,041 bales to New Orleans. For the year ended August 31, 1914, but 74 vessels destined to foreign countries cleared from the port of Mobile, carrying 359,343 bales of cotton, and 455 vessels cleared from the

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port of New Orleans carrying 1,692,089 bales. For the three years ended August 31, 1916, the Mobile & Ohio carried 2,426 bales of cotton from Memphis to Mobile and 24,236 bales moved by that line for New Orleans. During the same three years only 7,728 bales were shipped from Memphis to Mobile via all lines, and 662,211 bales were shipped to New Orleans, although the rates from Memphis to Mobile are the same as to New Orleans. There are five stations on the Southern Railway in Mississippi from which the rates to New Orleans are 5 cents less than to Mobile. During the five years ended August 31, 1916, these stations shipped 721 bales to Mobile and 94,855 bales to New Orleans. From Winona and Greenwood during the same five-year period 39 bales were shipped to Mobile and 2,297 bales to New Orleans of cotton originating at stations from which the rate to Mobile is the same as to New Orleans. From Columbus, West Point, and Winona, of cotton that originated at stations from which the rates are 5 cents less to Mobile than to New Orleans, 8,523 bales were shipped to Mobile and 17,110 bales to New Orleans during the five-year period mentioned. The New Orleans, Mobile & Chicago shows that during the two years ended August 31, 1915, the total movement of cotton from points on its line was 12,569 bales to Mobile and 48,509 bales to New Orleans. For the season ended August 31, 1916, from points on the New Orleans, Mobile & Chicago 26,960 bales moved to New Orleans and 379 bales to Mobile. The Southern Railway in Mississippi is operated by the Mobile & Ohio. The Mobile & Ohio and the New Orleans, Mobile & Chicago have their own lines to Mobile but not to New Orleans. Traffic received by these lines for New Orleans must be turned over to other lines at Meridian, Newton, Laurel, Hattiesburg, or Mobile with consequent loss of revenue to the originating lines. Under these circumstances no undue prejudice appears to exist in the fact that rates are maintained to Mobile, the port reached by these lines, 5 cents lower than over a considerably longer distance to New Orleans, a port not so reached.

From nearly all stations on the Southern Railway in Georgia, Tennessee, and Alabama, except points on the Memphis division and points in southern Alabama, hereinbefore referred to, the rates to New Orleans are 5 cents higher than to Mobile. No complaint is made with reference to the rates from points on the Memphis division which, in some instances, are the same as and in other instances 1 cent higher to New Orleans than to Mobile. As stated, the Southern Railway does not reach New Orleans by its own rails, and from all points reached by its line its route to that point is from 84 to 139 miles longer than its line to Mobile. The right of that railway to make lower rates to Mobile than to New Orleans is rested

upon three grounds: (a) The haul to Mobile is less than that to New Orleans. (b) It is more advantageous to the carrier to secure all of the rate than to secure a division. (c) It is advantageous to the carrier to keep its equipment on its own rails. In our opinion the proposed relation between the rates to New Orleans and Mobile is not shown to be unduly prejudicial to New Orleans.

It is urged that many of the lines reaching the south Atlantic ports of Charleston, Savannah, and Brunswick have established the same rates from many points to Charleston as to the two Georgia ports, although the distance to Charleston is often greater than that to Savannah or Brunswick. While it is true that some of the rates to Savannah and Brunswick have been equalized at Charleston, in many instances the difference in distance, Charleston over Savannah, from points from which the proposed rates are the same to the three ports is not great, as is shown by the following:

Distance from—	To Charleston.	To Savannah.	To Brunswick.
	<i>Miles.</i>	<i>Miles.</i>	<i>Miles.</i>
Atlanta.....	300	261	275
Chattanooga.....	446	398	412
Dalton.....	408	360	274
Rome.....	383	335	349
Gadsden.....	441	393	407
Corinth.....	664	594	575
Memphis.....	726	678	665
Birmingham.....	475	427	414

The new adjustment proposed to south Atlantic ports shows higher rates to Charleston than to Savannah or Brunswick in many instances, representative examples of which are the following:

From—	To Charleston.		To Savannah.		To Brunswick.	
	Distance.	Rate.	Distance.	Rate.	Distance.	Rate.
	<i>Miles.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Cents.</i>
Tatesville Ga.....	307	46	217	41	231	41
Fort Valley, Ga.....	322	45	229	37	216	37
Griffin, Ga.....	355	46	251	41	265	41
Woodbury, Ga.....	369	47	265	42	266	42
Columbus, Ga.....	381	47	266	42	264	42
Gurnee Junction, Ala.....	508	57	429	55	424	55
Mapleville, Ala.....	502	57	387	55	382	55

It is apparent that the Southern has not disregarded distance in establishing rates to the south Atlantic ports, while pleading it as a justification for the maintenance of lower rates to Mobile than to New Orleans. We are not able to conclude from the facts in evidence that the proposed rates of the Southern Railway on cotton from its stations in Georgia, Alabama, and Tennessee are unduly preferential of south Atlantic ports or unduly prejudicial to New Orleans.

The Louisville & Nashville reaches both New Orleans and Mobile, and the rates proposed on cotton from stations on its lines, Monmouth and north, except points on the Memphis division, are 5 cents higher to New Orleans than to Mobile. Monmouth is 18 miles north of Birmingham. From points south of Monmouth the differential against New Orleans increases as follows: It is 7 cents at Birmingham; 10 cents at Calera; 12 cents at Montgomery; 15 cents at Fort Deposit; 20 cents at Evergreen, 98 miles from Mobile, and approximately 20 cents at all points between Evergreen and Mobile.

The proposed adjustment from Louisville & Nashville points contemplates material reductions in the rates to New Orleans, and when consideration is given to the fact that all traffic to New Orleans by that line is hauled 139 miles farther than when going to Mobile, it can not be concluded that the differentials proposed will have the effect of continuing or producing undue prejudice to New Orleans.

The Alabama Great Southern Railroad extends from Chattanooga to Meridian. It forms a part of the Queen and Crescent route to the south and is closely affiliated with the other lines, the New Orleans & Northeastern and the Cincinnati, New Orleans & Texas Pacific forming that route, as well as with the Southern Railway system. Its route to New Orleans from all its cotton-producing stations is approximately 65 miles longer than that to Mobile and the proposed rates are 3 cents higher than to Mobile. It can not be concluded from that circumstance that the proposed adjustment unduly prejudices New Orleans.

The Central of Georgia, the Atlantic Coast Line, the Seaboard Air Line, and many other lines operating in the states of Georgia and Alabama were made defendants in one or another of these complaints. None of them reaches New Orleans, and traffic from these lines to New Orleans must come via the gateways Meridian, Montgomery, or Mobile. The rates proposed from points on these lines are usually 5 cents higher to New Orleans than to Mobile, and this relation of rates under the circumstances existing does not appear to be unduly preferential of Mobile or unduly prejudicial to New Orleans.

The advantages of New Orleans as a port and as a cotton market have been dwelt upon at considerable length by both complainants and defendants. Certain witnesses gave their opinions as to the advantage it would be to shippers to have a parity in the rates to New Orleans and Mobile. It is clear, however, that New Orleans gets practically all of the cotton and Mobile almost none from the territory from which equal rates are made to the two ports. It is clear also that Mobile gets considerably less cotton than does New Orleans from the points on the Mobile & Ohio, and New Orleans,

Mobile & Chicago from which the rates to Mobile are 5 cents less than to New Orleans, and that the result of putting the rates to New Orleans on a parity with those to Mobile would be to divert practically all of the cotton to New Orleans. Mobile has a geographical advantage over New Orleans in its proximity to some of this territory. By reason of that circumstance and its recognition by some of the carriers serving that port a small proportion of the cotton has been attracted there. To require the carriers to equalize the rates to New Orleans and Mobile from territory outside a radius of 200 miles from Mobile would be greatly prejudicial to the interests of Mobile and no adequate justification for so doing has been shown.

FOURTH SECTION APPLICATIONS.

In the fourth section applications which were assigned for hearing in connection with these complaints petitioners ask authority to continue rates on cotton from certain producing points lower than from intermediate points on routes to Gulf ports, south Atlantic ports, eastern cities, Ohio River crossings, Nashville and Memphis, Tenn. In some instances relief is sought on account of the position of the various railroads with reference to the Mississippi River, its tributaries, the Gulf of Mexico, and the Atlantic seaboard; but in other instances relief is sought on account of the rates made by shorter or stronger lines reaching the same territory. With the exception of points along or near the Mississippi River and its tributaries, the Gulf of Mexico, and the Atlantic seaboard, the rates on cotton to the various destinations named conform in general with the fourth section by all reasonably direct lines. In a few instances relief is sought on account of water competition on the Alabama, Tombigbee, Chattahoochee, Altamaha, and other rivers, and in other instances relief is sought by fairly direct routes on account of the competition of stronger lines and by reason of the policy of a preservation of port relationship in the rates. These exceptional instances will be dealt with in proper order.

THE MISSISSIPPI RIVER AND ITS TRIBUTARIES.

The influence of the Mississippi River and its tributaries, the Yazoo and Sunflower rivers, upon the rail rates applicable to the transportation of cotton from all points on or near these rivers must be recognized. Cotton is well adapted to transportation by wagon, and it is so hauled distances as great as 15 miles to points on the Mississippi River and its tributaries, sometimes crossing rail lines on the way. There are many points near the lines of the

Illinois Central and the Yazoo & Mississippi Valley railroads at which cotton is produced that are within from 3 to 12 miles of the river, and the rates from these points have been adjusted with a view to attracting the traffic to the rail lines as against a short wagon haul to the river and transportation by steamboat or barge. The evidence shows that during the season ended August 31, 1916, 2,550 bales were moved from Glen Allen, a station about 15 miles south of Greenville, Miss., to the river and shipped by water to Vicksburg, New Orleans, or Memphis; from Erwin, 225 bales, and from Swiftwater 500 bales were shipped to New Orleans by water. Lots ranging from 100 to 2,900 bales were shipped by water from points on the Riverside division of the Yazoo & Mississippi Valley to markets along the river, and other shipments by river to these various markets included 2,900 bales from Friars Point, 250 bales from Penton, 800 bales from Tunica, 100 bales from Evansville, 500 bales from Clayton, and 3,000 bales from Dundee, Miss. The total amount of cotton brought into Memphis by water during the year ended August 31, 1916, was approximately 90,000 bales. While the production in the territory immediately north of New Orleans has been much curtailed in recent years, due to the ravages of the boll weevil, the river receipts at New Orleans in the year 1916 were 28,088 bales. In 1907 these receipts were approximately 220,000 bales. The Mississippi River is navigable throughout the year. There are regular steamboats which handle cotton from points along the river to the various markets, including St. Louis and New Orleans. These boats take loads of cotton ranging from 200 or 300 bales to 3,000 or 4,000 bales at a trip. The rates by the boat lines range from 50 cents to \$1 per bale. It is said that in no instance do they exceed the latter figure. The cost of marine insurance is from 20 to 25 cents per bale additional. The Lee line boats make one trip from cotton-producing points along the river to Memphis each week, two trips to Cairo, two trips to St. Louis, and two or more trips to intermediate landings. Certain small independent steamers also operate in this territory. The Lee line and several independent boats, some of large capacity, operate south of Memphis as far as Greenville, each making two trips per week, giving a regular service as far south as Vicksburg. In the Memphis trade there are seven regular steamboats, and their principal business is handling cotton. Much of the 90,000 bales per annum which comes to Memphis by river comes from stations on the Illinois Central or the Yazoo & Mississippi Valley railroads. There are four regular packets operating from Helena as far north as Memphis and as far south as Vicksburg, each making from one to two trips a week. These boats brought into Helena during the sea-

son ended August 31, 1916, 5,400 bales of cotton, of which more than one-half originated at stations on the Yazoo & Mississippi Valley Railroad, and some of it was hauled across that line to the river. Three steamers operate from Rosedale as far north as Memphis and as far south as Vicksburg, making two trips each week. Three steamers make one or more trips per week between Memphis and Greenville. During the cotton season of 1916 they brought into Greenville 5,176 bales. Four steamers operate from Vicksburg as far north as Memphis and as far south as Natchez, and also on the Yazoo and Sunflower rivers, making one or more trips weekly. During the season ended August 31, 1916, these steamers brought into Vicksburg 5,097 bales. Two regular steamers operate from Natchez as far north as Vicksburg and as far south as Bayou Sara. They brought 2,188 bales of cotton into Natchez last season. Regular boats also handle cotton from all points on the Mississippi River as far north as Vicksburg direct to New Orleans. On the Yazoo River one or more boats operate regularly north of Greenwood, making weekly trips, and another line owning two boats makes weekly trips between Greenwood and Vicksburg. During the season 1916 these boats brought 9,268 bales of cotton into Greenwood and 4,132 bales into Yazoo City. Memphis is said to be the largest interior cotton market in the world. Approximately 600,000 bales were concentrated at Memphis during the year 1916. Of this amount, as stated, 90,000 bales were brought in by the river, 60,000 bales by wagon, and 450,000 bales by railroad. The rates made by the rail carriers on cotton from points on or near the rivers vary somewhat with the degree of competition which is afforded by the river. For example, the rate on compressed cotton from Memphis to New Orleans is 17 cents, and the ship-side rate is 20 cents. This ship-side rate on compressed cotton from Memphis to New Orleans has been as low as 9 cents. With the decrease of water competition along the river the rate from Memphis has been gradually increased to its present figure. It is represented that where so large an amount of cotton is concentrated, as is the case at Memphis, its transportation from that point to New Orleans would constitute a profitable business for a line of steamboats that received no other traffic, and low rates are offered by the steamboats to secure this business. The domestic rail rate on compressed cotton from Helena, Rosedale, and Greenville to New Orleans is 20 cents, or 3 cents more than the rate from Memphis, although Greenville is by river several hundred miles south of Memphis. The adaptability of cotton to shipment by water, the availability of the route by river, the presence of boats seeking traffic, and the large amount of cotton to be transported has influenced and now influences these rail carriers

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in continuing rates from Memphis and other points on the Mississippi River to New Orleans which are less than the rates from intermediate points. The points named below are either on or near the Mississippi River, and the rates from these points to New Orleans are as shown:

	A	B	C		A	B	C		A	B	C
Memphis.....	30	27	17	Benoit.....	33			Swiftwater..	29	38	
Helena.....	30		20	Nugent.....	33			Wayside.....	31	40	
Friars Point..	33			Lake Vista... 33				Avon.....	83	42	
Rosedale.....	33			Scott.....	33			James.....	33	42	
Gill.....	33	42		Moore.....	28			Glen Allen..	28		
Beulah.....	33	42		Lamont.....	33			Vicksburg... 27		17	
Christmas....	33	42		Winterville.. 31				Natchez.....	28	16	
Loddell.....	33			Wilczinski... 29				Bayou Sara.. 15		10	
Dahomey....	33			Greenville... 28		20		Baton Rouge 12		10	

NOTE.—The A rates apply upon uncompressed cotton to go through to destination uncompressed. The B rates apply on uncompressed cotton with privilege to carrier of compression. The C rates apply on compressed cotton.

The rates shown from points on or near the Mississippi River are materially less than from intermediate points. In fact, it may be said that the rates to New Orleans from the cotton producing area in Mississippi and Tennessee lying within approximately 60 miles of the river vary with the distance of the various points from the river. For example, rates from points on the Illinois Central Railroad for about 60 miles south of Memphis increase as the distance from Memphis increases and as the distance to New Orleans decreases. The rates on uncompressed cotton from some of these stations to New Orleans are as follows:

From—	To New Orleans.		To Memphis.
	Rate.	Distance.	
	Cents.	Miles.	Miles.
Hernando.....	44	872	24.4
Senatobia.....	48	857	30
Sardis.....	54	844	52
Batesville.....	55	834.5	61.5

The rate of 55 cents from Batesville is the maximum rate on cotton to New Orleans from any intermediate point. It is urged that the traffic on some of these lines operating through the states of Mississippi, Tennessee, and Louisiana is extremely light. This is particularly true of the Yazoo & Mississippi Valley Railroad, the New Orleans, Mobile & Chicago, and the Southern Railway in Mississippi. Many of the points have practically nothing to ship except cotton,

and the rail carriers assert that the rates which have been applied from these points on or near the rivers have not been lower than the existing competition has made necessary in order to secure the traffic. We are of opinion, and find, that the carriers have justified the necessity for the rates which are proposed from the river points and other points contiguous to the rivers from which the rates have been affected by the competition afforded by the river or by combination on river points. The rates from intermediate points compare favorably with other rates in the same territory for like distances and under similar circumstances and do not appear to be unduly prejudicial to these points.

RATES TO MOBILE FROM RIVER POINTS AND INTERMEDIATE POINTS.

The rates from Memphis and Greenville to Mobile are the same as to New Orleans. The evidence shows that even with equal rates but little cotton from territory contiguous to the river finds its way to Mobile. As heretofore stated, during the three years ended August 31, 1916, only 7,728 bales were shipped from Memphis to Mobile, while 662,211 bales were shipped to New Orleans. This demonstrates that the rates from Memphis to Mobile have not been lower than the competition made necessary. The rates from other river points to Mobile are the same as, or higher than, to New Orleans. The evidence indicates that but little cotton moves to Mobile from points west of the New Orleans, Mobile & Chicago Railroad.

We are of opinion, and find, that the carriers have justified the rates proposed from these river points to Mobile and the maintenance of the higher rates proposed from intermediate points.

RATES TO PORT CHALMETTE AND GULFPORT FROM RIVER POINTS.

The ship-side rate to Port Chalmette is the same as to New Orleans, and the rates to Gulfport from all points in Mississippi north of the Mississippi Central Railroad are the same as to New Orleans. The evidence shows that in recent years but little cotton has moved to Gulfport. How much may have moved to Port Chalmette the record does not disclose.

We are of opinion, and find, that the carriers have justified the maintenance of the same rates from these river points and intermediate points to Gulfport and Port Chalmette as to New Orleans.

RATES FROM RIVER POINTS TO MEMPHIS.

The same influences which have reduced the rail rates from the river points to New Orleans have likewise affected the rates to Mem-

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phis. The depressed rate points are New Orleans, Natchez, Vicksburg, Rosedale, Greenville, Helena, and points on the Riverside, Leland, and Helena districts of the Yazoo & Mississippi Valley Railroad. The rates from these points to Memphis on uncompressed cotton are as follows:

From—	Present.	Proposed.	Highest rated intermediate point.
	<i>Cents.</i>	<i>Cents.</i>	<i>Cents.</i>
New Orleans, La.....	30	40	55
Natchez, Miss.....	30	30	47
Vicksburg, Miss.....	27	30	40
Greenville, Miss.....	25	27.5	40
Rosedale, Miss.....	27.5	27.5	40
Helena, Ark.....	20	20	28.6
Helena district stations.....	20 to 28.6	20 to 28.6	
Riverside district stations.....	22 to 30	22 to 30	
Leland district stations.....	25 to 39	27.5 to 39	

We are of opinion, and find, that the carriers have shown the necessity for the maintenance of the lower rates proposed from the points on or near these rivers and the points from which rates are made by combination on the river points. The higher rates applied from intermediate points compare favorably with the rates from other points in the same territory over like distances and do not appear to be unduly prejudicial to such points.

RATES FROM RIVER POINTS TO OHIO RIVER CROSSINGS.

Relief is sought as to the rates from New Orleans, Natchez, Vicksburg, Greenville, Rosedale, Helena, Memphis, and points from which rates are made by combination on these points. From New Orleans it is proposed to publish a rate on cotton, subject to "carriers' privilege" of compressing, of 55 cents to Cairo and Paducah, Ky. The maximum rate from intermediate points is 60 cents. To Evansville, Henderson, Jeffersonville, New Albany, St. Louis, East St. Louis, Belleville, Ill., and Louisville, Ky., the proposed "carriers' privilege" rate from New Orleans is 60 cents. The maximum rate from any intermediate point is 65 cents. The "carriers' privilege" rate proposed to Lexington, Covington, and Newport, Ky., and Cincinnati, Ohio, is 65 cents. The maximum rate from any intermediate point is 70 cents. The proposed "carriers' privilege" rate from Memphis to Cairo and Paducah is 30 cents. The maximum rate from any intermediate point is 45 cents. The proposed "carriers' privilege" rate from Memphis to Evansville, Henderson, Owensboro, New Albany, St. Louis, East St. Louis, Belleville, and Jeffersonville

is 30 cents. The maximum rate from any intermediate point is 50 cents.

The proposed rate from Memphis to Lexington, Covington, Newport, and Cincinnati is 35 cents. The maximum rate from any intermediate point is 55 cents. The "carriers' privilege" rate from Natchez, Vicksburg, Greenville, and Rosedale to Cairo, Paducah, Evansville, Henderson, Owensboro, Louisville, Jeffersonville, New Albany, St. Louis, East St. Louis, and Belleville is 50 cents; to Lexington, Covington, Newport, and Cincinnati, 55 cents. The maximum rate from any intermediate point to any of the first-named group of points is 65 cents, and to all of the last-named group 70 cents. The rate from Helena to St. Louis is 33 cents and the maximum rate from any intermediate point is 58 cents.

We are of opinion, and find, that the same influences which have made necessary the reduced rates between points along the Mississippi River have also made necessary the rates here proposed between points on the Mississippi River on the one hand and on the Ohio River on the other, and that the carriers have justified the maintenance of these lower rates between the river points and higher rates from intermediate points to the same destinations.

RATES FROM RIVER POINTS TO SOUTH ATLANTIC PORTS.

The present "carriers' privilege" rate on cotton from New Orleans to Charleston, Savannah, and Brunswick is 35 cents; on compressed cotton, 25 cents. It is proposed to increase this rate to 60 cents on "carriers' privilege" and on compressed cotton. No relief is sought as to the rates proposed on compressed cotton, but authority is sought to continue rates higher than 60 cents from intermediate points to the south Atlantic ports on "carriers' privilege" cotton. The rates proposed will have the effect of greatly reducing the disparity which now exists between the rates from New Orleans and intermediate points to the south Atlantic ports. We are of opinion, and find, that the carriers have justified the maintenance of lower rates from New Orleans on "carriers' privilege" cotton than from intermediate points. The present rate on compressed cotton from Memphis to south Atlantic ports is 27 cents and the "carriers' privilege" rate is 37 cents. The maximum "carriers' privilege" rate from any intermediate point is 70 cents. The rates from Memphis to south Atlantic ports apply only on export traffic and have been established by the lines leading east from Memphis in order to secure some of the movement of this cotton which otherwise would be exported through New Orleans. The export rate on compressed cotton of 27 cents to south

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Atlantic ports should therefore be compared with the ship-side rate of 20 cents to New Orleans. It is a competitive rate, and it is clear that the carriers leading east from Memphis have a right to meet the competition of the lines to New Orleans, providing the rates so made are sufficient to safely cover the out of pocket costs, and so long as they meet the competition of the New Orleans lines consistently at intermediate points. That is to say, if export rates from Memphis to south Atlantic ports are necessary that are but 7 cents higher than the export rate to New Orleans, the rates from intermediate points to south Atlantic ports should not exceed the export rates to New Orleans from the same points by more than 7 cents. The 27-cent rate on compressed cotton from Memphis to the south Atlantic ports affords a revenue of from 8 to 9 mills per ton-mile and from 12 to 14 cents per car-mile and can not be considered as too low to cover the probable out of pocket costs.

The "carriers' privilege" rate from Greenville to south Atlantic ports is 45.6 cents. It is asserted that this rate is as high as can be applied from that point and permit concentration of cotton at Greenville for export through south Atlantic ports in competition with the markets of New Orleans and Memphis. The maximum rate from any intermediate point is 65 cents. It is proposed to cancel all rates from Vicksburg, Natchez, and other Mississippi River points to the south Atlantic ports for the reason that such rates have been unsuccessful in attracting any traffic.

We are of opinion, and find, that the carriers have justified the maintenance of the lower rates proposed from Memphis and Greenville to south Atlantic ports, and the application of higher rates from intermediate points.

RATES FROM RIVER POINTS TO EASTERN CITIES.

The water rate from New Orleans to New York for beyond is 28 cents, and the rates to New England points made by the use of this proportional water rate through New York range as low as 40 cents. Practically all the movement of cotton from New Orleans to the eastern points is carried by the boat lines. In order, however, to secure some portion of the traffic the rail lines publish a rate from New Orleans to Boston on the compressed cotton of 56.6 cents and a "carriers' privilege" rate of 66.6 cents that includes the cost of compression. Rates are also published to Boston from other points on or near the Mississippi River and its tributaries as follows:

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To Boston from—	Com-pressed cotton.	Maximum rates from intermedi-ate points.	
		On com-pressed cotton.	On car-riers' privilege.
New Orleans, La.....	56.6	86.6	.....
Memphis, Tenn.....	49.1	62.1	.....
Covington, Tenn.....	62.1	.....	.....
Dyersburg, Tenn.....	62.1	.....	.....
Natches, Miss.....	58.6	.....	89.6
Vicksburg, Miss.....	58.6	.....	89.6
Greenville, Miss.....	58.6	.....	89.6
Rosedale, Miss.....	58.6	.....	89.6
Holena, Ark.....	55.5	68.6	.....
Yazoo City, Miss.....	60.6	.....	89.6
Greenwood, Miss.....	60.6	.....	89.6
Clarksdale, Miss.....	68.6	.....	89.6

The rate from St. Louis to Boston is 88.6 cents, and the rate of 49.1 cents from Memphis appears to have been established in some measure with relation thereto. St. Louis is itself a cotton market, and the rates via the boat lines from the cotton-producing territory along the river are approximately the same to St. Louis as to Memphis. The rate via boat lines from New Orleans to New York was 20 cents prior to 1916, and the ship-side rate from Memphis to New Orleans was then, and is now, 20 cents. Under these circumstances it appears to be impracticable for the carriers to maintain any higher rate from Memphis to Boston than that now in effect. The rates from other points along or near the river and its tributaries appear to have been constructed with relation to the rates from Memphis or New Orleans in order to permit the concentration of some cotton at these points for shipment to Boston in competition with the larger markets of New Orleans and Memphis. The rates to other eastern cities are made with relation to the rates to Boston as follows:

New York.....	5 cents under Boston.
Philadelphia.....	7 cents under Boston.
Baltimore, Md.....	8 cents under Boston.
Cumberland, Md.....	8 cents under Boston.
Albany, N. Y.....	10 cents under Boston.
Rochester, N. Y.....	
Syracuse, N. Y.....	
Emporium, Pa.....	
Utica, N. Y.....	
Buffalo, N. Y.....	11.8 cents under Boston.
Portland, Me.....	Same as Boston.
Providence, R. I.....	
Halifax, Nova Scotia.....	8 cents over Boston.
St. Johns, New Brunswick.....	
Montreal, Quebec.....	

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The competition of boats along the Mississippi River and its tributaries has materially affected the rates to New Orleans, to the Ohio River crossings, to Memphis, to Mobile, to south Atlantic ports and in some measure to eastern cities, from all points on or near the Mississippi, Yazoo, and Sunflower rivers. It is represented that it is absolutely necessary to adjust the rates at the various points on or near these rivers to a level that will attract the cotton to the rail lines in competition with a wagon haul to the river and transportation thence by steamboat and barge.

We are of opinion, and find, that the rates which these carriers are proposing from points on or near the Mississippi, Sunflower, and Yazoo rivers, and from points from which rates are made by combination on the river points are not lower than the competition now existing makes necessary. We shall therefore authorize them to establish the rates proposed from these river points, points near the rivers, points from which rates are made by combination on river points, from Mobile and Pensacola to Gulf ports, south Atlantic ports, Ohio River crossings, Memphis, and eastern cities, and to continue higher rates from intermediate points as hereinbefore indicated.

RATES BETWEEN GULF PORTS.

No cotton is produced between Mobile and New Orleans, but some cotton is produced along the line of the Louisville & Nashville Railroad between Pensacola and Mobile. The rate on compressed cotton from Pensacola to Mobile is 15 cents, and to New Orleans 20 cents. The movement of cotton between these points via rail or water is unusual. Occasionally some cotton is shipped by rail from one port to another in order to complete the loading of a ship unable to complete its loading where it is docked.

We are of opinion, and find, that the conditions existing at these various Gulf ports are altogether different from the conditions existing at intermediate points and that no undue prejudice is brought about against intermediate points by the maintenance of lower rates from Pensacola and Mobile to New Orleans than are contemporaneously applicable from intermediate points.

RATES BETWEEN PORTS ON THE ATLANTIC COAST.

The situation along the Atlantic coast is similar in some respects to that along the Mississippi River. The boat rate from Savannah and Charleston to New York is 20 cents and from Wilmington 30 cents. The activity of the boats on the Atlantic seaboard has influenced the rail carriers to establish materially lower rates, all-rail

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and rail-and-water, from the south Atlantic ports to New York and New England points than from intermediate stations. For example, the rail-and-water rate proposed on compressed cotton from Savannah to New York is 40 cents, while the maximum rate from intermediate points on uncompressed cotton, to go through uncompressed, is 70 cents. Lower rates are also made between the south Atlantic ports than from intermediate points. For example, the proposed rate on compressed cotton between Brunswick and Savannah is 13 cents. The highest rate from intermediate points is 26 cents on uncompressed cotton. The rate proposed between Charleston and Savannah on compressed cotton is 17 cents. The proposed rate between Savannah and Jacksonville on uncompressed cotton is 27 cents, while the highest rate from any intermediate point is 30 cents. The rates from south Atlantic ports to New York are also less than from intermediate points. The proposed rate on uncompressed cotton from Wilmington to Norfolk is 26 cents. The highest rate from any intermediate point is 39 cents.

We are of opinion, and find, that the carriers are justified in the maintenance of the lower rates proposed between the south Atlantic ports and from south Atlantic ports to north Atlantic ports than those contemporaneously maintained from intermediate points.

RATES FROM POINTS ON OTHER RIVERS.

Selma, Montgomery, Camden, Demopolis, and Tuscaloosa, Ala., are on or near the Alabama and Tombigbee Rivers and enjoy regular all-year boat service to Mobile. The carriers desire to apply from these points the following rates:

From—	To Mobile.		To New Orleans.	
	Distance.	Rate.	Distance.	Rate.
	<i>Miles.</i>	<i>Cents.</i>	<i>Miles.</i>	<i>Cents.</i>
Selma.....	162	35	301	45
Montgomery.....	179	35	318	45
Camden.....	140	20	279	35
Demopolis.....	185	35	357	45
Tuscaloosa.....	232	30	390	44

The rates proposed from Selma and Montgomery will be observed as maxima at intermediate points by the Louisville & Nashville Railroad. The routes of other railways from these two points are not materially longer than the route of the Louisville & Nashville and relief should not be afforded as to the rates from these points to Mobile and New Orleans except in instances in which the routes are

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15 per cent or more longer than that of the Louisville & Nashville. The rates proposed from Demopolis and Tuscaloosa do not appear to be so low as to justify relief from these points by lines that are less than 15 per cent longer than the direct lines. The rates proposed from Camden are lower than we could require from points at corresponding distances from the ports. This point is at the end of the Camden branch of the Louisville & Nashville Railroad and that carrier will be authorized to apply the rates proposed therefrom and rates from intermediate points which do not exceed 29 cents to Mobile and 44 cents to New Orleans.

Columbus, Ga., is on the Chattahoochee River, and the rates proposed from that point to Gulf ports via the Central of Georgia Railway and the Louisville & Nashville Railroad are 2 cents less than from intermediate points. The justification offered is the competition of boats operating on the Chattahoochee River and the Gulf of Mexico. The evidence, however, does not warrant the conclusion that there is any present necessity for the maintenance of lower rates from this point to the Gulf ports than from intermediate points by direct lines.

Macon is on the Ocmulgee River and Milledgeville is on the Oconee River, both of which are branches of the Altamaha, which empties into the Atlantic Ocean near Brunswick. These streams have been improved by the government of the United States and a more or less regular water service has been maintained thereon for many years. Carriers desire to apply from these points rates of 35 cents to Savannah, which are 2 cents lower than from intermediate points. The force of the water competition on these rivers was recognized by us in *Fourth Section Violations in the Southeast*, 30 I. C. C., 158, in which we authorized somewhat lower rates on classes and commodities from eastern cities to these points than to intermediate points. We shall therefore authorize relief to the extent sought as to these two points.

Augusta is on the Savannah River and enjoys a regular all-year water service between that point and Savannah. The rate which the carriers desire to apply from that point is 25 cents to Savannah, while the maximum rate from intermediate points is 32.5 cents. Under the circumstances here existing the higher rates from intermediate points do not appear to be unduly prejudicial to such points, and the relief sought will be granted.

Lower rates are maintained by the Atlantic Coast Line Railroad from stations Mannings to Washington, inclusive, from Jenkins to Plymouth, inclusive, and from Edgecombe to New Bern, inclusive, to Norfolk, than from intermediate stations. Washington is located on the Pamlico River near the coast, and there is a regular boat line

operating through Washington up the Tar River, which parallels the Atlantic Coast Line from Washington to Mannings. The rate to Norfolk from these water competitive stations is 24 cents, as compared with the maximum rate from intermediate points of 26 cents. Plymouth is on Albemarle Sound, and a regular boat line operates on the Roanoke River through Plymouth beyond Jenkins. This boat line is operated in connection with the Norfolk Southern Railroad from Plymouth to Norfolk, by which water-and-rail route the rates are differentials less than by petitioner's route. Other boats operate from points on the Roanoke River to Norfolk via the inland water route through the Dismal Swamp Canal. Petitioner's rate from these water competitive points is 23 cents, as compared with the maximum rate from intermediate points of 26 cents. New Bern is located on the Neuse River, near the coast, and there is a regular water service from there to Norfolk. It is the terminus of petitioner's line extending from Washington north along the coast, and the rates grade up from New Bern for some distance south to meet the competition through New Bern of the water route and the Norfolk Southern Railroad, which publishes lower rates from New Bern to Norfolk than does petitioner. The petitioner's rates range from 30 cents at New Bern to 38 cents at Edgecombe, while the maximum rate from intermediate points is 39 cents. Under the circumstances above described this petitioner will be authorized to establish the rates proposed from these stations to Norfolk.

The rates proposed from Sheffield, Tuscumbia, Huntsville, Chase, and Florence, Ala., to Gulf ports, south Atlantic ports, and to eastern and Virginia cities, and from Decatur to eastern and Virginia cities are lower than from intermediate points on the direct lines. These points are on or near the Tennessee River, but we are not convinced that there is anything in that circumstance which necessitates, under existing conditions, lower rates than from intermediate points by direct lines, and the relief sought will be denied.

Nashville is on the Cumberland River and enjoys a regular steamboat service between Nashville and points on the Ohio and certain points on the Mississippi rivers. On account of that circumstance, relief is asked and should be granted as to rates between Nashville and points on the Ohio River and between Nashville and Memphis and Hickman, Ky. The rate to Memphis is 36 cents and the maximum rate from intermediate points is 40 cents. The rate proposed from Nashville to the Gulf ports is 40 cents. We are unable to see in the situation at Nashville any necessity for the maintenance of rates from that point to Gulf ports which are lower than the combination on Memphis. This combination would be 53 cents, and authority will be granted to apply rates from Nashville to Gulf

ports not lower than the Memphis combination and higher rates as proposed from intermediate points.

The rates proposed from Nashville to New York and other eastern cities are the same as from Memphis and are fixed with relation to the rates from St. Louis and from the Ohio River crossings. This appears to have been done in order to permit the concentration of cotton at Nashville and its reshipment from that point in competition with Memphis and St. Louis and perhaps other points. We can see no sufficient reason, however, for according to Nashville lower rates to eastern cities than from intermediate points.

Hobb's Island, Guntersville, and Gunters Landing are on or near the Tennessee River, and relief is sought as to the rates from these points to New York and other eastern cities. The rates from these points appear to have been adjusted with relation to the rates from Decatur and other points along the river, as to which relief has been hereinbefore denied, and relief will also be denied as to the rates from these three points.

RATES FROM INTERIOR JUNCTION POINTS.

In the proposed revision of rates on cotton the carriers apparently have been actuated by a desire to bring the rates into alignment with the rule of the fourth section in so far as that could be accomplished without serious sacrifice of revenue. The proposed rates in general from all points not affected by water competition to the destinations here considered conform to the fourth section by reasonably direct lines. There are, however, many situations in which the rates from junction points made by the direct lines are met by indirect lines, and by such lines higher rates often apply from intermediate points. The rates from Jackson, Meridian, Birmingham, Cedartown, Atlanta, and Chattanooga to Gulf ports, by the direct lines, are not exceeded at intermediate points. The rate from Cedartown, for example, to New Orleans is 55 cents. The direct route is the Seaboard Air Line from Cedartown to Birmingham, the Alabama Great Southern from Birmingham to Meridian, and the New Orleans & Northeastern from Meridian to New Orleans. The distance is 461 miles. By this route the 55-cent rate is not exceeded from any intermediate point. The Central of Georgia Railway maintains the same rate from Cedartown via its route through Raymond, Ga., and Columbus to Montgomery and the Louisville & Nashville Railroad from Montgomery to New Orleans, while maintaining rates as high as 58 cents from intermediate points. The distance via the Central of Georgia route is 557 miles, or 96 miles longer than the direct route. The rate from Dothan, Ala., to Savannah is 45 cents. The short line is the Atlantic

Coast Line, 291 miles. The distance via the Central of Georgia is 380 miles. This line seeks authority to meet via its route the rate maintained by the Atlantic Coast Line and to maintain rates from certain intermediate points of 47 cents. As we view it, no undue prejudice will be brought about or continued against intermediate points by permitting the Central of Georgia Railway and other railways similarly situated to continue from competitive points the rates which are maintained by their competitors over direct lines, and higher rates from intermediate points by routes which are circuitous to the extent of 15 per cent or more, so long as the rates from intermediate points are fairly graded. In the example last cited, of the rate from Dothan to Savannah, the route of the Central of Georgia from Dothan is through Columbia, Albany, Smithville, and Macon. Forrester, 5 miles east of Albany, is almost exactly 291 miles from Savannah. If the rate from that point to Savannah is not higher than 45 cents, which is the rate for an equal distance from Dothan, and the rates from points west of Forrester grade up at a rate of not to exceed 1 cent for each 10 miles, we can see no good reason why the Central of Georgia should not be permitted to continue to engage in traffic from the competitive point, although applying higher rates graded as above described from intermediate points. We shall deny the relief as to rates on cotton from interior junction points not affected by water competition, or by combination on water competitive points, by direct lines to the destinations here named. The rates by direct lines must be so aligned as to conform to the fourth section. The direct lines' rates from all these points to eastern cities will be regarded as applying through the nearest south Atlantic port. Rates so made and aligned may be applied by the carriers through such ports or gateways as may best serve their convenience, although by so doing traffic may in some instances pass from lower rated through higher rated points.

Relief from the fourth section will be afforded all carriers operating indirect routes to the destinations named under the following conditions:

1. The rates by direct lines must conform to the fourth section or authority to depart from the rule of that section must have been granted as to such rates.
2. The indirect lines must be circuitous to the extent of 15 per cent or more, except as hereinafter indicated.
3. The rates made by the direct lines from the competitive points shall be the basis for the rates from points on the indirect lines; that is to say, the rates from points on indirect lines seeking relief that are not more distant from destinations than the competitive points shall not be higher than from the competitive points and

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rates from more distant points shall be graded at not more than 1 cent per 100 pounds for each 10 miles, or fraction thereof, of additional distance as indicated in the example of the rate from Dothan and intermediate points to Savannah.

4. If a line has been afforded relief as to its rates to south Atlantic ports under conditions 1, 2, and 3, or under the special circumstances hereinafter described, it will also be afforded like relief as to rates through those ports to eastern cities.

The following-named short lines, in but one or two instances reaching any of the destinations here involved but participating to some extent in the traffic, have no voice in the construction of these rates and must apply from their junction points the same rates that are established by their stronger competitors: The New Orleans, Mobile & Chicago Railroad; the Mississippi Central Railroad; the Gulf & Ship Island Railroad; the Birmingham & Southeastern Railway; the Gainesville Midland Railway; the Georgia Railroad; the Georgia & Florida Railway; the Georgia, Florida & Alabama Railway; the Georgia Northern Railway; the Georgia, Southwestern & Gulf Railroad; the Macon & Birmingham Railway; the Macon, Dublin & Savannah Railroad; the Ocilla Southern Railroad; the Georgia Southern & Florida Railway; the Charleston & Western Carolina Railway; and the Southern Railway in Mississippi. It is urged that these roads, on account of their financial condition, the sparsity of their traffic, and their positions as mere links in through routes, should not be required to maintain the same basis of rates from their local points as their stronger competitors. The position of many of these lines is illustrated by that of the Georgia & Florida Railway. Its main line runs from Augusta, Ga., in a southerly direction to Madison, Fla., 250 miles, with several branches aggregating 90 miles. In the 250 miles of main line it meets or touches the Southern Railway; the Atlantic Coast Line; the Central of Georgia; the Atlanta, Birmingham & Atlantic; and the Seaboard Air Line, all of which have lines running directly to one or more of the south Atlantic ports. If this road secures any cotton at Augusta consigned to Savannah it may be hauled to Midville and there turned over to the Central of Georgia, or it may be hauled to Hazlehurst and there turned over to the Seaboard. If it receives any traffic at Vidalia consigned to Brunswick it may be hauled to Hazlehurst, Douglas, or Willacoochie, and at one of these points turned over to other lines reaching the port of Brunswick. Under these circumstances this carrier desires authority to apply the same rates from its junction points that are maintained by its competitors and to route the traffic via such junctions as will enable it to obtain the most revenue, although by so doing the traffic will be routed from
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lower rated through higher rated points. The rates proposed from local points are made by taking 90 per cent of the lowest combination of locals. For example, Normantown, Ga., is 8 miles north of Vidalia. If the local rate from Normantown to Vidalia is 7 cents and the rate from Vidalia to Savannah is 30 cents, the combination on Vidalia is 37 cents, and the rate Normantown to Savannah would be 90 per cent of 37 cents, or 33 cents. Other of these railways propose to make the rates from local stations full combinations on junction points, and ask for such relief from the fourth section as may be necessary to enable them to do so. Other railways make the rates from local points differentials of from 1 to 5 cents over the rates from junction points. Their routes from junction points are usually circuitous, but not always to the extent of 15 per cent. We had occasion to deal with some of these small roads and a number of others in connection with *Fourth Section Violations in the Southeast, supra*, and authorized for two years the maintenance of class rates from eastern cities to local points on such lines made on combinations over junction points, although lower rates were applied to more distant points. These small roads are in no sense a factor in the making of rates from their junction points to any of these destinations. Each one, however, serves a local territory that would otherwise be without railroad service, and we believe the interests of shippers at the local stations as well as the interests of these lines will be best served by a rate policy that permits these lines to continue to participate in the traffic from their junction points, although applying higher rates from local intermediate points. We shall therefore authorize these lines to continue from their junction points the rates maintained by their competitors and the higher rates proposed from intermediate points on indirect lines with these limitations: (1) Where these lines form links or parts of direct routes, the fourth section must be observed; (2) the rates from intermediate points on indirect lines must not exceed 90 per cent of lowest combination on junction points. The following special cases require somewhat specific treatment:

MOBILE & OHIO RAILROAD.

This railroad maintains uninsured rail-and-water rates from points on its line via Mobile and the Mallory Steamship line to eastern cities that are 3 cents lower than the all-rail rates from the same points. Since the all-rail rates are higher from the more southerly points on the line, the water-and-rail rates, being fixed with relation thereto, are higher from intermediate points than from more distant points. We are not convinced that this relationship is necessary or

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proper, and fourth section relief will be denied as to these rail-and-water rates through Mobile.

From points in what is known as the Aberdeen group, consisting of Aberdeen, Columbus, West Point, and Starkville, Miss., the rates to Norfolk are 1 cent lower than from points north thereof on the main line. The petitioner asks authority to route traffic from this group northerly to points on connecting lines, although the routes used are not circuitous to the extent of 15 per cent in all instances, and this relief will be granted.

Authority is sought to route traffic from Montgomery to south Atlantic ports westwardly to connections with the Southern Railway and the Alabama Great Southern at Maplesville and Tuscaloosa, although the routes so used are in a few instances slightly less than 115 per cent of the direct lines, and the authority sought will be granted.

SOUTHERN RAILWAY IN MISSISSIPPI.

The main line of this railroad extends from Greenville, Miss., easterly to Columbus, Miss., with branches extending both north and south from Elizabeth, Ita Bena, or other near-by points and other less important branches. The rates to Memphis from stations on its line increase as the distance from the Mississippi River increases, and it is desired to route traffic from the western end of the line east to West Point, Miss., thence north, and again west to Memphis, thus traversing three sides of a square. This we consider a waste of transportation. This carrier can not observe the fourth section on rates from points on its line to Memphis, for the line lies almost at right angles to the natural direction of traffic and is intersected at numerous points by lines running in a general north and south direction. Authority will be denied to route cotton to Memphis via West Point from points west of Winona, but authority will be granted to route cotton from all points on the line west of Winona to Memphis via Winona or any junction point west thereof, and to route traffic from Winona and all points east thereof through any junction point on the line, subject only to the limitation that the rates from local points shall not exceed 90 per cent of the combination on interior junction points.

ATLANTA, BIRMINGHAM & ATLANTIC RAILWAY.

Relief is sought as to the rates from La Grange, Talladega, Thomasville, Tifton, Atlanta, and Union City to Gulf ports. The routes of the petitioner are circuitous to the extent of 15 per cent in all instances except from Talladega to New Orleans, and the relief sought will be granted.

Relief is sought with respect to the rates from Thomasville, Moultrie, and Tifton to Brunswick, Savannah, and Jacksonville. The routes of the petitioner from Thomasville to all three ports are more than 15 per cent longer than the direct lines. Its routes from Moultrie and Tifton are more than 15 per cent longer than the direct lines to Brunswick and Jacksonville, but the routes to Savannah are slightly less than 15 per cent longer than the direct lines. The relief sought will be granted.

Relief is sought with respect to the rates from Talladega, the Birmingham group, and Atlanta, to Charleston, Wilmington, and Norfolk. The routes to Charleston and Wilmington are more than, and to Norfolk slightly less than, 15 per cent longer than the direct lines, and the relief sought will be granted.

ALABAMA GREAT SOUTHERN RAILROAD.

Relief is sought as to the rates from Chattanooga, Attalla, Alabama City, and Gadsden, and points in the Birmingham group to Brunswick, Savannah, and Charleston. The distances by the direct lines to these ports vary from 398 to 475 miles, while the routes used by this petitioner vary from 468 to 618 miles. Its routes are usually, but not invariably, 15 per cent longer than the direct lines, and the relief sought will be granted.

Relief is sought with reference to rates from the Attalla group and the Birmingham group to St. Louis and Evansville. No rates are published from intermediate points, and it is testified that there is no demand or necessity for rates from these points. Unless the routes are circuitous to the extent of at least 15 per cent, the rates from the Attalla and Birmingham groups to these destinations should be published subject to rule 77 of Tariff Circular 18-A.

LOUISVILLE & NASHVILLE RAILROAD.

This railroad asks relief as to the rates from Brownsville, Tenn., to eastern and Virginia cities. This point is about 15 miles from Covington, on the Illinois Central. The rates from Covington have been reduced by combination on Memphis. The Louisville & Nashville Railroad draws its cotton at Brownsville from territory between the Louisville & Nashville and the Illinois Central, and desires to apply from Brownsville the same rates that are applied by the Illinois Central at Covington. The relief sought will be granted.

Relief is sought with reference to the rates from points on the line from Pensacola to River Junction, on the line from Georgia to Graceville, Fla., and lines connecting these two branches, to eastern and Virginia cities. Authority is sought to apply from

these sections of petitioner's railway the same rates that are applied by the Central of Georgia Railway and the Atlantic Coast Line from the same or opposite stations on their lines. The Louisville & Nashville desires to route this traffic to eastern cities and Norfolk through the Ohio River crossings and in so doing routes the traffic through higher rated points. The routes of the petitioner from these points are circuitous to the extent of 15 per cent, and the relief sought will be granted.

SEABOARD AIR LINE RAILWAY.

Relief is sought respecting rates from Columbia, S. C., to Charleston and Wilmington. Petitioner's route to Charleston is more than, but to Wilmington slightly less than, 15 per cent longer than the direct line, and the relief sought will be granted.

CENTRAL OF GEORGIA RAILWAY.

Relief is sought with reference to the rates to Gulf ports from Atlanta, McPherson, Newnan, and Bremen, Ga., and Ozark and Arlton, Ala. The following table shows the relative lengths of the direct and indirect routes from the points named to these ports:

From—	To—
Atlanta.....	Mobile, C. of G. route, 119 per cent of short line.
Do.....	New Orleans, C. of G. route, 113 per cent of short line.
McPherson, Ga.....	Mobile, C. of G. route, 119 per cent of short line.
Do.....	New Orleans, C. of G. route, 114 per cent of short line.
Newnan, Ga.....	Mobile, C. of G. route, 112 per cent of short line.
Do.....	New Orleans, C. of G. route, 108 per cent of short line.
Bremen, Ga.....	Mobile, C. of G. route, 113 per cent of short line.
Do.....	New Orleans, C. of G. route, 113 per cent of short line.
Ozark, Ala.....	Mobile, C. of G. route, 117 per cent of short line.
Do.....	New Orleans, C. of G. route, 111 per cent of short line.
Arlton, Ala.....	Mobile, C. of G. route, 113 per cent of short line.
Do.....	New Orleans, C. of G. route, 112 per cent of short line.

The relief sought will be granted.

Relief is sought as to the rates from Macon to Wilmington and Norfolk, by routes that are somewhat less than 15 per cent longer than the direct lines, and this relief will be granted.

WESTERN RAILWAY OF ALABAMA AND ATLANTA & WEST POINT RAILROAD.

Relief is sought by the Western Railway of Alabama as to rates from Montgomery and Selma to Gulf ports. Authority is sought to route traffic from Montgomery westerly through Selma and from Selma easterly through Montgomery and to apply higher rates from intermediate points between Selma and Montgomery. The routes

from both points to Pensacola and Mobile are circuitous to the extent of 15 per cent, but the routes to New Orleans are somewhat less than 15 per cent longer than the routes of the direct lines. The relief sought will be granted.

Relief is sought as to the rates from Atlanta, East Point, Union City, Newnan, La Grange, West Point, Opelika, and Montgomery to Jacksonville, Brunswick, Savannah, Charleston, Wilmington, and Norfolk. This line lies almost at right angles to the natural direction of traffic from its junction points to these ports. The direct lines observe the fourth section. The routes of the petitioner are circuitous, but in some few instances not to the extent of 15 per cent, and the relief sought will be granted.

Relief is sought as to the rates from Atlanta, Montgomery, and Selma to Ohio River crossings and Memphis. The routes of the petitioners are circuitous in nearly all instances to the extent of 15 per cent, and the relief sought will be granted.

ATLANTIC COAST LINE RAILROAD.

Relief is sought as to the export rates from Montgomery to south Atlantic ports, which it is proposed to make 2 cents lower than from intermediate points. The reason offered for this departure from the long-and-short-haul rule as to these export rates is the rate to New Orleans and the claim that it is necessary to equalize the rate of 45 cents to New Orleans in order to get the export traffic from Montgomery to move through the ports on the Atlantic seaboard in competition with New Orleans. This claim, however, is not persuasive, since cotton moves from Memphis to the south Atlantic ports for export under rates that are 7 cents higher than the rates from Memphis to New Orleans, and we are unable to see any necessity for export rates from Montgomery to south Atlantic ports that are lower than from intermediate points.

SOUTHERN RAILWAY.

Relief is sought as to the rates from Decatur, Florence, Sheffield, and Tuscumbia to the Ohio River crossings. The routes used by the Southern Railway to these various crossings are usually, but not invariably, circuitous to the extent of 15 per cent, and the relief sought will be granted.

Relief is sought as to the rates from Chester, Carlisle, Catawba Junction, Barnwell, Allendale, Hardeeville, Pagnall, Camden Junction, Augusta, and Columbia to Wilmington. The routes of the petitioner from nearly all of these points are circuitous to the extent of 15 per cent, and the relief sought will be granted.

Relief is sought as to the rates from Goldsboro and Charlotte, N. C., Sanford, Sumter, Columbia, Camden, S. C., and Augusta to eastern cities. The routes of the petitioner from nearly all of these points are circuitous to the extent of 15 per cent, and the relief sought will be granted.

All other and further relief sought by these applications as to the rates on cotton to the destinations named will be denied. We are dealing here only with the relation of these rates under the fourth section. The proposed rates contain many increases and many reductions. They are regarded as *prima facie* reasonable, but they are not immune to protest or attack if they conflict with other provisions of the act.

Appropriate orders will be entered.

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CASES DISPOSED OF BY THE COMMISSION WITHOUT PRINTED REPORT DURING THE TIME COVERED BY THIS VOLUME.

3117. *IN RE TRANSPORTATION OF COAL WITHOUT CHARGE.* Investigation by the Commission of transportation of coal without charge from points in West Virginia and other states to points in Ohio and other states. *H. L. Bond, Jr.*, for respondents. Proceeding discontinued, July 21, 1917.

3581. *GIROUX CONSOLIDATED MINES CO. v. N. N. RY. CO. ET AL.* Through routes and joint rates to points in Nevada from various points of origin in other states. *W. A. Glasgow, Jr.*, for complainant. *C. H. Lindley, H. A. Scandrett and F. C. Dillard* for defendants. Dismissed on request of complainant, October 2, 1917.

5222. *CALKINS v. N. P. RY. CO. ET AL.* Rates on paper tablets, wrapping paper, ink and paper bags to Butte, Mont., originating at eastern points. *G. M. Stephen* for complainant. *J. N. Davis and L. R. Capron* for defendants. Dismissed on request of complainant, June 14, 1917.

5360. *CUDAHY PACKING CO. v. C. & O. RY. CO. ET AL.* Rates on soap, soap powder and washing powder from South Omaha, Nebr., to Arizona common points. *G. P. Boyle* for complainant. *T. J. Norton* for defendants. Dismissed on request of complainant, July 12, 1917.

5803. *TEMPLETON & SONS v. C. & O. RY. CO. ET AL.* Rates on grain products from Louisville, Ky., to Virginia cities, originating at Chicago, Ill. *J. S. Brown* for complainant. *M. Law* for C. & O. Ry. Co., defendant. Claim for refund adjusted. Complaint dismissed, October 2, 1917.

7500. *JACOB CO. ET AL. v. A. & T. & S. F. RY. CO. ET AL.* Rates on women's untrimmed hats and bonnets from points east of the Missouri River to San Francisco, Cal. *C. Clifford and M. A. Coles* for complainants. *E. W. Camp and G. D. Squires* for defendants. Claim for refund adjusted. Complaint dismissed, October 2, 1917.

8235. *PLATT & CO. v. N. P. RY. CO. ET AL.* Charges on carload of shingles from Frances, Wash., to Plainview, Tex., based on actual weight to Denver, Colo., and minimum weight to destination. *W. Metzenbaum* for complainant. No appearance for defendants. Transferred to special docket for adjustment, July 26, 1917.

8833. *LEHIGH COAL & NAVIGATION CO. v. L. & N. E. R. R. CO. ET AL.* Rates on anthracite coal from points in Pennsylvania to Undercliff, N. J. *H. A. Lehman* for complainant. *H. A. Taylor* for defendants. Dismissed on request of complainant, October 2, 1917.

8834. *KETTLE RIVER CO. v. M. P. RY. CO. ET AL.* Rates on railway ties from points in Missouri to St. Louis, Mo., when destined to Madison, Ill. *S. Lehmann* for complainant. *H. G. Herbel, C. C. P. Rausch, M. E. Rhodes, R. E. Bailey, J. T. Hicks and C. B. Bee* for defendants. Dismissed on request of complainant, August 4, 1917.

8977. *IRAAC-JOSEPH IRON CO. v. L. & N. R. R. CO. ET AL.* Rate on scrap iron and scrap rails from New Orleans, La., to Knoxville, Tenn. *H. C. Barnes* for complainant. *W. A. Colston and W. A. Northcutt* for defendants. Transferred to special docket for adjustment, July 12, 1917.

9041. *ZELNICKER SUPPLY CO. v. P. & G. N. R. R. CO. ET AL.* Rate and minimum weight of 36,000 pounds on carload of old or relay rails from Paris, Tex., to Fort Towson, Okla. *J. D. Fidler* for complainant. No appearance for defendants. Transferred to special docket for adjustment, June 28, 1917.

9109. *LAYNE & BOWLER Co. v. FT. W. & D. C. RY. Co. ET AL.* Charges on wrought-iron pipe and machinery from Boden, Tex., to Alamosa, Colo. No appearance for complainant. *V. E. Jackson* for defendants. Transferred to special docket for adjustment, August 8, 1917.

9111 and Sub No. 1. *CUDAHY PACKING Co. ET AL. v. O. S. L. R. R. Co.* Rate on feed from Pocatello, Idaho, to Salt Lake, Utah, used for feeding hogs in transit. *R. S. Sawyer* for complainants. *J. O. Moran* for defendant. Transferred to special docket for adjustment, September 17, 1917.

9211. *WARD FRUIT Co. v. N. P. RY. Co. ET AL.* Rates on apples in boxes from Prosser, Wash., to Colgan, N. Dak., and from Zillah, Wash., to Westby, Mont. *C. W. Lundberg* for complainant. *H. B. Ramsey* for defendants. Transferred to special docket for adjustment, August 8, 1917.

9301. *ZELNICKER SUPPLY Co. v. C. & N. W. RY. Co. ET AL.* Rate on second-hand steel piling from Winona, Minn., to Louisville, Ky. *J. D. Fidler* for complainant. No appearance for defendants. Transferred to special docket for adjustment, September 17, 1917.

9348. *CHAMBER OF COMMERCE, HOUSTON, TEX., v. A. G. S. R. R. Co. ET AL.* Rates for the transportation of property from interstate points to Houston, Tex. *P. Kayser, J. A. Morgan* and *F. A. Lallier* for complainant. *G. Waldo, M. J. Dowlin, L. M. Hogsett* and *T. M. Griffen, F. R. Dalzell, J. T. Bowe, Thompson, Barwise & Wharton,* and *J. F. Garvin* for defendants. Complaint satisfied. Dismissed, July 25, 1917.

9401. *MAGUIRE & Co. v. W. RY. Co. ET AL.* Rate on oats from Huntington, Ind., to Cincinnati, Ohio. *G. M. Freer* for complainant. *N. S. Brown* and *H. E. Watts* for defendants. Dismissed on request of complainant, June 14, 1917.

9445. *WESTERN CAROLINA LUMBER AND TIMBER ASSO. ET AL. v. L. R. RY. Co. ET AL.* Rate on oak lumber from Newland, N. C., to Biltmore, N. C., via an interstate route. *G. L. Forester* for complainant. *R. W. Moore* for defendants. Dismissed on request of complainant, June 14, 1917.

9471. *GOOD v. C., M. & ST. P. RY. Co. ET AL.* Rate on pine lumber from Springdale, Wash., to Barber, Mont. *E. M. Front* for complainant. *J. F. Finerty* and *O. W. Dynes* for defendants. Dismissed on request of complainant, June 14, 1917.

9475. *SANGER BROTHERS v. ST. L., S. F. & T. RY. Co. ET AL.* Rate on cotton flannel from Cordova, Ala., to Dallas, Tex. *A. L. Reed* for complainant. *T. Bond* for defendants. *G. Waldo, R. Dunlap, T. J. Norton* and *W. F. Dickinson* for interveners. Dismissed on request of complainant, October 2, 1917.

9479. *NORTHERN COAL Co. v. M. & O. R. R. Co.* Furnishing cars for the transportation of coal. *R. W. Ropiequet* for complainant. *S. R. Prince* for defendant. Dismissed on request of complainant, July 12, 1917.

9483. *CINCINNATI LIVE STOCK EXCHANGE ET AL. v. B. & O. S. W. R. R. Co. ET AL.* Rates and minimum weights on live stock from points in the state of Indiana to Cincinnati, Ohio. *M. Seasongood* for complainants. *W. A. Eggers, E. S. Ballard, O. S. Lewis,* and *F. H. Behring* for defendants. Complaint satisfied. Dismissed, October 15, 1917.

9502. *SEYMOUR PACKING Co. v. A., T. & S. F. RY. Co. ET AL.* Rates on dressed poultry from Winfield, Kans., to Boston, Mass., New York, N. Y., and Fort Wayne, Ind. *E. H. Hogueland* for complainant. *R. G. Merrick, H. G. Herbel* and *F. B. Clark* for defendants. Dismissed on request of complainant, June 14, 1917.

9534. *KAUFMAN & SONS Co. v. C. R. R. Co. of N. J. ET AL.* Rate on scrap iron from Garwood, N. J., to Burnham, Pa. *L. Kaufman* for complainant. *T. B. Koons, H. W. Bikle, G. S. Patterson,* and *J. E. Reynolds* for defendants. Dismissed on request of complainant, June 14, 1917.

9571. *LARSON Co. v. C., B. & Q. R. R. Co.* Rate on domestic wine from St. Louis, Mo., to Fremont, Nebr. *W. H. Young* for complainant. No appearances for defendant. Transferred to special docket for adjustment, October 26, 1917.

9582 and Sub No. 1. *WILSON LUMBER Co. ET AL. v. A., T. & S. F. Ry. Co. ET AL.* Rates on lumber from points in Oklahoma to destinations in Missouri, Iowa, Kansas, and Nebraska. *E. H. Hogueland* and *J. S. Kirkpatrick* for complainants. *C. C. P. Rausch*, *R. R. Lethem* and *A. T. Sullivan* for defendants. Dismissed on request of complainants, October 2, 1917.

9583. *LEHIGH PORTLAND CEMENT Co. v. A., O. & Y. Ry. Co. ET AL.* Rates on cement from Newcastle, Pa., to destinations in Ohio. *F. E. Paulson* and *L. J. Dauback* for complainant. *H. A. Fidler*, *W. N. King*, *Wilson & Reclor*, *E. D. Hotchkiss*, *M. R. Waite*, *J. Stillwell*, *T. H. Burgess*, *M. B. Pierce*, *R. W. Moore*, *E. S. Ballard*, *W. A. Parker*, and *F. C. Baird* for defendants. Dismissed on request of complainant, August 25, 1917.

9617 and Sub No. 1. *HAUSER PACKING Co. v. O. S. L. R. R. Co. ET AL.* Yardage charges assessed in connection with shipments of hogs from various points in Idaho and Utah to Los Angeles, Cal., stopped en route for rest, feed, and water. *F. P. Gregson* for complainant. *H. O. Scandrett*, *G. H. Smith*, *J. O. Moran*, and *A. S. Halsted* for defendants. Dismissed on request of complainant, July 12, 1917.

9626. *ARTESIAN MANUFACTURING & BOTTLING Co. v. A., T. & S. F. Ry. Co. ET AL.* Rates on ginger ale, soda water, and carbonated beverages, Waco, Tex., to Kansas City and St. Louis, Mo., Memphis, Tenn., Chicago, Ill., New Orleans, La., and other points; and rates on returned carriers from above points to Waco, Tex. *H. D. Driscoll* for complainant. *P. B. Warren*, *L. J. Hackney*, *W. L. Louis*, *A. P. Humburg*, *J. M. Souby*, *C. S. Burg*, *O. W. Dynes*, *Denegre*, *Leovy & Chaffe*, *T. Bond*, *R. Dunlap*, *T. J. Norton*, *H. G. Herbel*, *F. G. Wright*, *R. H. Widdicombe*, *K. F. Burgess*, *A. Miller*, *Wilson*, *Dabney & King*, *D. Upthegrove*, *E. B. Perkins*, *J. R. Turney*, *F. H. Wood*, *Baker*, *Botts*, *Parker & Garwood*, *R. W. Moore*, *T. J. Freeman*, *G. Thompson*, *W. F. Dickinson*, and *Boyle*, *Storey*, *Ezell & Grover* for defendants. Complaint satisfied. Dismissed, October 4, 1917.

9627. *MERCHANTS FREIGHT BUREAU OF LITTLE ROCK, ARK., v. A. C. L. R. R. Co. ET AL.* Rates on knitting-factory products from points in Tennessee, Georgia, and Alabama to Little Rock, Ark. *G. F. Williams* for complainant. *W. T. Hughes*, *G. E. Schnitzer*, *J. R. Turney*, *J. E. Allen*, *W. F. Knobloch*, *H. G. Herbel*, and *F. B. Clark* for defendants. *W. M. Taylor* for interveners. Dismissed on request of complainant, August 17, 1917.

9633. *GULF COAST TRANSPORTATION Co. v. N. O. G. N. R. R. Co.* Demurrage charges on lumber at Slidell, La., shipped from Bogalusa, La., for export and coast-wise delivery. *G. Lemle* for complainant. *B. M. Miller* for defendant. Dismissed on request of complainant, October 2, 1917.

9647. *BUHLER MILL & ELEVATOR Co. v. St. L.-S. F. Ry. Co. ET AL.* Milling-in-transit privileges on grain at Buhler, Kans., from points in Oklahoma and Kansas to Memphis, Tenn., New Orleans, La., and other points taking the same rates. *J. C. Regier* for complainant. *F. H. Wood*, *Denegre*, *Leovy & Chaffe*, *T. J. Freeman*, *G. Thompson*, *T. Bond*, *Baker*, *Botts*, *Parker & Garwood*, *R. Dunlap*, *T. J. Norton*, *R. W. Moore*, and *W. F. Dickinson* for defendants. Dismissed on request of complainant, August 4, 1917.

9650. *MERCHANTS FREIGHT BUREAU OF LITTLE ROCK, ARK., v. B. & O. R. R. Co. ET AL.* Rates on furniture from points in Michigan, Ohio, and Indiana to Little Rock, Ark. *G. F. Williams* for complainant. *F. L. Littleton*, *J. W. Clark*, *J. R. Turney*, *J. E. Allen*, *W. F. Knobloch*, *O. R. Bromley*, *W. T. Hughes*, and *G. E. Schnitzer* for defendants. *W. M. Taylor* for interveners. Dismissed on request of complainant, October 2, 1917.

9656. *WHITACRE-GREEER FIRE PROOFING Co. v. P. Co. ET AL.* Furnishing cars for the transportation of hollow building tile material. *G. Clark* for complainant. *J. Stillwell* for defendants. Dismissed on request of complainant, September 7, 1917.

9685. *REYNOLDS ASPHALT SHINGLE Co. v. I. C. R. R. Co. ET AL.* Rates on asphalt shingles and prepared roofing from Grand Rapids, Mich., to interstate destinations. *I. W. Preetorius* for complainant. *J. B. Sheean, W. A. Colston, W. A. Northcutt, A. H. Lossow, Glennon, Cary & Walker, M. R. Waite, Wilson & Rector, C. G. Austin, jr., W. J. Larrabee, P. B. Warren, O. W. Dynes, W. L. Louis, J. H. Campbell, T. H. Burgess, M. B. Pierce, R. H. Widdicombe, A. P. Humburg, R. V. Fletcher, Winston, Payne, Strawn & Shaw, C. Brown, J. F. Finerty, H. D. Howe, H. D. Palmer, F. M. Miner, M. M. Joyce, S. S. Perry, C. E. Dewey, R. W. Moore, K. F. Burgess, C. B. Cardy, and W. F. Dickinson* for defendants. Dismissed on request of complainant, October 2, 1917.

9703. *DU PONT DE NEMOURS & Co. v. C. OF G. RY. Co. ET AL.* Rates on shipments of lead pans and (or) covers, from Savannah, Ga., to Hopewell, Va. *W. A. Simonton* for complainant. *R. W. Moore* for defendants. Dismissed on request of complainant, August 25, 1917.

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REPARATION GRANTED UNDER SUPPLEMENTAL ORDERS OF THE COMMISSION DURING THE TIME COVERED BY THIS VOLUME.

8363. *CRAWFORD v. T. & P. Ry. Co. ET AL.* July 23, 1917. Reparation for \$636.58, on shipments of pine ties from Paxton and other points in Texas to El Paso, Tex., destined to Pearson, Mexico, on account of unreasonable rates.

8122 and 8122 (Sub.-No. 1). *LEWIS MANUFACTURING Co. v. C., B. & Q. R. R. Co. ET AL., and SAME v. C., B. & Q. R. R. Co.* August 4, 1917. Reparation for \$796.85, on shipments of petroleum tar from Omaha, Nebr., to Kansas City, Mo., and Memphis, Tenn., on account of unreasonable charges.

7621. *ROWE MANUFACTURING Co. v. C., B. & Q. R. R. Co. ET AL.* August 4, 1917. Reparation for \$359.10, on shipments of fence gates made of wood and iron from Galesburg, Ill., to various interstate destinations, on account of unreasonable charges.

8238. *KAW RIVER SAND & MATERIAL Co. v. A., T. & S. F. Ry. Co. ET AL.* August 4, 1917. Reparation for \$3,402.94, on account of unreasonable charges for switching interstate shipments of sand at Kansas City, Mo.

8356. *CHAMPION FIBRE Co. v. So. Ry. Co.* August 4, 1917. Reparation for \$1,254.83, on shipment of bulk sulphur from Charleston, S. C., to Canton, N. C., on account of unreasonable rates.

8424. *HALLACK & HOWARD LUMBER Co. v. D. & R. G. R. R. Co. ET AL.* August 4, 1917. Reparation for \$80.57, on shipments of railroad rails from Glencoe, Colo., to Caliente, N. Mex., on account of unreasonable charges.

6126. *LADD & Co. v. G. S. W. Ry. Co., ET AL.* August 4, 1917. Reparation for \$4,667.41, on account of unreasonable rates on shipments of lumber from Furth, Ark., to interstate destinations.

8414. *MACHIN v. U. P. R. R. Co.* October 2, 1917. Reparation for \$356.62, on shipments of corn from Valley, Elkhorn, and Waterloo, Nebr., to destinations in Kansas, on account of unreasonable rates.

9044. *INTERNATIONAL HARVESTER Co. OF N. J. v. C. & N. W. Ry. Co. ET AL.* October 2, 1917. Reparation for \$1,715.72, on shipments of sisal fiber from St. Paul, Minn., to Chicago, Ill., on account of unreasonable rate.

8045 and 8046. *BAXTER & Co. v. F., A. & G. R. R. Co. ET AL., and SAME v. L. & N. R. R. Co.* October 2, 1917. Reparation for \$533.24, on shipments of crosties from Wing, Falco, and Watson, Ala., to Pensacola, Fla., on account of unreasonable rates.

8105. *THOMPSON BROS. LUMBER Co. v. M., K. & T. Ry. Co. ET AL.* October 2, 1917. Reparation for \$333.99, on shipments of coal from Degnan, Buck, Lutie, and Wilburton, Okla., to Sequoyah, Tex., on account of unreasonable rate.

4923. *DOUGLAS & Co. v. I. C. R. R. Co. ET AL.* October 2, 1917. Reparation for \$3,683.13, on shipments of starch and corn oil, from Cedar Rapids, Iowa, to various destinations, on account of unreasonable charges.

NOTE.—The amount of reparation awarded in the above cases aggregates \$17,820.98.

TABLE OF COMMODITIES.

[The number in parentheses following citation indicates where commodity is considered]

- Albumen, flaked egg. *See* Egg albumen.
- Angles, iron and steel. Greenville, Pa. Fabrication in transit, 641.
- Asphalt. Interior Iowa cities from points east of the Indiana-Illinois state line, 595.
- Asphaltum. Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 236.
- Attachments, gas heating. New Comerstown, Ohio, to San Francisco, Cal., 440.
- Barley. Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 236.
- Bars, iron and steel. Greenville, Pa. Fabrication in transit, 641.
- Barytes, crude. Lexington, Ky., to Philadelphia, Pa., 515.
- Beams, iron and steel. Greenville, Pa. Fabrication in transit, 641.
- Beans. Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 236.
- Bolts, iron:
 Cleveland, Ohio, to Florence, Ala., 373.
 Greenville, Pa. Fabrication in transit, 641.
- Bolts, steel. Greenville, Pa. Fabrication in transit, 641.
- Bottle openers. *See* Openers.
- Bottles, old beer. Official classification territory. Ratings, 383.
- Bran. Salina, Kans., to Kansas City, Mo., for beyond, 467.
- Buckwheat flour. *See* Flour.
- Butter. Mitchell, S. Dak., to Chicago, Ill., and New York, N. Y., 1 (15).
- Buttermilk. Central freight association territory, to and from points in, and from points south of the Ohio River to Cincinnati, Ohio, 601.
- Canned goods:
 Butte, Mont., from Salt Lake City and other Utah points, 447.
 Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 236.
- Carriers, empty. Western classification territory. Ratings, 520.
- Carriers, old bottle. Official classification territory. Ratings, 383.
- Castings, iron:
 Cleveland, Ohio, to Florence, Ala., 373.
 Greenville, Pa. Fabrication in transit, 641.
- Castings, steel. Greenville, Pa. Fabrication in transit, 641.
- Cattle. Dryden, Tex., to Middlewater, Tex., stopped at El Paso, Tex., for feeding and resting, 322.
- Cement:
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 Memphis, Tenn., to Ripley and Pontotoc, Miss., 473.
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- Channels, iron and steel. Greenville, Pa. Fabrication in transit, 641.
- Chatts. Webb City, Mo., to Beatrice, Nebr., 301.
- Class rates:
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 Indianapolis, Ind., to and from Ohio River crossings and Thebes, Ill., on traffic destined to or originating in southeastern territory, 547.
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Fenton, Mich., from Kentucky, West Virginia, and Ohio mines. Weights, 407.

Illinois mines to Muscatine, Iowa, 450.

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Columns, iron and steel. Greenville, Pa. Fabrication in transit, 641.

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Egg yolk, powdered. Vancouver, B. C., to New York, N. Y., 290.

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Grain products:

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 Sand. Allison Branch, Ill., to Indiana, 412.
 Sauerkraut. Butte, Mont., from Salt Lake City and other Utah points, 447.
 Shafts, sleigh. Kalamazoo, Mich., to Spokane, Wash., 333.
 Shooks, box. Cairo, Ill., to Kentucky and Tennessee, 693.
 Sleighs, passenger. Kalamazoo, Mich., to Spokane, Wash., 333.
 Staves. Princeton, Ark., to various destinations, 327.
 Steam rollers. *See* Rollers.
 Steel. Interior Iowa cities from points east of the Indiana-Illinois state line, 595.
 Steel articles. Greenville, Pa. Fabrication in transit, 641.
 Stone, crushed and rough. Lannon, Wis., to Chicago, Ill., 320.
 Stoneware. St. Louis, Mo., and Monmouth and Macomb, Ill., to Billings and Harlowton, Mont., 331.
 Stove parts, gas cooking. Greenville, N. J., to Portland, Oreg., 354.
 Stoves, gas cooking:
 Greenville, N. J., to Portland, Oreg., 354.
 San Francisco, Cal., from points east of the Missouri River, 352.
 Sulphur, crude. New York, N. Y., to Hopewell, Va., 363.
 Tailings, zinc. Webb City, Mo., to Beatrice, Nebr., 301.
 Tees, iron and steel. Greenville, Pa. Fabrication in transit, 641.
 Ties, cross:
 Carbondale, Ill. Stoppage for treating on shipments from Alabama and Mississippi, destined to Chicago, Ill., and Indianapolis, Ind., 305.
 Louisiana to Smithville, Brookshire, and Spring, Tex., 469.
 Turpentine. Louisiana to St. Paul and Minneapolis, Minn., 523.
 Vegetables, canned. Butte, Mont., from Salt Lake City and other Utah points, 447.
 Wheat:
 Kansas City, Mo., to Chicago, Ill., stored in transit at Leavenworth, Kans., 359.
 Los Angeles, Cal. Switching, 645.
 Salina, Kans., from Beloit, Asherville, and Simpson, Kans., milled and reshipped to Kansas City, Mo., and reshipped to various destinations, 467.
 Wine. Pacific coast ports to Atlantic seaboard, via Galveston, Tex., 236.
 Yolk, powdered egg. *See* Egg yolk.
 Zees, iron and steel. Greenville, Pa. Fabrication in transit, 641.

TABLE OF LOCALITIES.

[The number in parentheses following citation indicates where locality is considered.]

- Afton, Okla., from Waterloo, Iowa. Refrigerators, 421.
- Ainsworth, Nebr., from Careywood, Idaho. Cedar posts, 372.
- Alabama to Chicago, Ill., and Indianapolis, Ind., stopped and treated at Carbondale, Ill. Cross-ties, 305.
- Alabama to Gulf ports, south Atlantic ports, Ohio and Mississippi river crossings, and eastern cities. Cotton; fourth section, 712.
- Alabama to Natchez, Miss. Lime, 60.
- Alabama to New Orleans, La. Cotton, 712.
- Alabama to New York, N. Y., Philadelphia, Pa., Baltimore, Md., and other points in trunk line territory. and Boston, Mass., Providence, R. I., and other points in New England territory. Pig iron, 558.
- Allison Branch, Ill., to Indiana. Sand and gravel, 412.
- Altoona district, Pa., to Lake Erie ports for transshipment. Bituminous coal, 159.
- Anasley, La., to various destinations. Lumber; allowances, 501.
- Appalachia district to Ohio, Michigan, and Indiana. Bituminous coal, 66.
- Arizona from eastern territory. Commodity rates; fourth section, 236 (254).
- Arizona from Kansas. Flour, 299.
- Asherville, Kans., to Salina, Kans., milled and reshipped to Kansas City, Mo., for beyond. Wheat, 467.
- Ashtabula Harbor, Ohio, from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.
- Atlantic ports from Buffalo, N. Y. Grain, 570.
- Atlantic seaboard from Pacific coast, via Galveston, Tex. Commodity rates, 236.
- Atlantic seaboard territory from Lake Charles, La. Clean rice, 661.
- Baltimore, Md. Demurrage on coal and coke, 677.
- Baltimore, Md. Storage charges on flour, 295.
- Baltimore, Md., from Birmingham and other points in Alabama and Tennessee. Pig iron, 558.
- Baltimore, Md., to and from points on the Caloosahatchee River. Through routes and joint rates, 309.
- Baltimore, Md., to Seattle, Wash., and San Francisco and Los Angeles, Cal. Bottle openers, 415.
- Battle Creek, Mich., from Ohio and West Virginia mines, and Pittsburgh district. Bituminous coal, 66 (95).
- Bay City, Mich., to Blytheville, Ark. Wooden hoops, 303.
- Bayway, N. J., to New York, N. Y. Heavy naphtha, 424.
- Beatrice, Nebr., from Webb City, Mo. Chatts, 301.
- Bee Hunter, Ind., from Allison Branch, Ill. Sand and gravel, 412.
- Beloit, Kans., from Kansas City, Mo. Refrigerators, 421.
- Beloit, Kans., to Salina, Kans., milled and reshipped to Kansas City, Mo., for beyond. Wheat, 467.
- Belvidere, Ill., from Huntingburg, Ind. Lumber and other forest products, 429.
- Bicknell, Ind., from Allison Branch, Ill. Sand and gravel, 412.
- Billings, Mont., from St. Louis, Mo., and Monmouth and Macomb, Ill. Stoneware, 331.

Birmingham, Ala., to New York, N. Y., Philadelphia, Pa., Baltimore, Md., and other points in trunk line territory. and Boston, Mass., Providence, R. I., and other points in New England territory. Pig iron, 558.

Birmingham, Ala., to and from North Birmingham, Ala. Switching, 335.

Black Hills district. S. Dak., from Wyoming mines. Coal, 628.

Bluefield, W. Va., from Huntington, W. Va. Class rates, 432.

Blytheville, Ark., from Bay City, Mich. Wooden hoops, 303.

Boardman, N. C., to Norfolk, Richmond, and other Virginia gateways. Lumber, 622.

Bolton, N. C., to Norfolk, Richmond, and other Virginia gateways. Lumber, 622.

Boston, Mass., from Birmingham and other points in Alabama and Tennessee. Pig iron, 558.

Boston, Mass., to and from points on the Caloosahatchee River. Through routes and joint rates, 309.

Branchville, N. J., from Taylor, Tamaqua, Nesquehoning, and other Pennsylvania points. Anthracite coal, 427.

Bridge Junction, Ark., from Lepanto, Ark., destined to Clayton, La. Piling, 445.

Bridgewater, Mich., from Chapman, Ala., reconsigned at Cairo, Ill. Yellow-pine lumber, 307.

Brigham, Utah, to Butte, Mont. Canned goods, 447.

Brooklyn, N. Y., to and from New York, N. Y., via car floats. Fresh meat, 356.

Brookshire, Tex., from Louisiana. Crossties, 469.

Bruceville, Ind., from Allison Branch, Ill. Sand and gravel, 412.

Buffalo, N. Y. Reshipping rates on grain, 570.

Buffalo, N. Y., from Ohio. Milk, 601.

Buffalo, N. Y., from Quick, W. Va. Lumber, 368.

Buffalo, N. Y., to upper group cities in Iowa. Class rates, 20.

Buffalo Creek, W. Va., from Huntington, W. Va. Class rates, 432.

Buffalo-Pittsburgh territory to Johnson City, Tenn., via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.

Burlington, Iowa, from Buffalo, N. Y., Pittsburgh, Pa., and points in C. F. A. territory. Class rates, 20.

Burns, Tenn., to Natchez, Miss. Lime, 60.

Bushrod, Ind., from Allison Branch, Ill. Sand and gravel, 412.

Butte, Mont., from Salt Lake City and other Utah points. Canned goods, 447.

Cairo, Ill., from Chapman, Ala., reconsigned to Bridgewater, Mich. Yellow-pine lumber, 307.

Cairo, Ill., to and from Indianapolis, Ind., on traffic destined to or originating in southeastern territory. Class rates, 547.

Cairo, Ill., to Kentucky and Tennessee. Egg-case material and box shooks, 693.

Cairo, Ill., to trunk line and New England territories. Grain and grain products, 343.

California to Lake Charles, La. Rough rice, 661.

California ports to Atlantic seaboard, via Galveston, Tex. Commodity rates, 236.

Caloosahatchee River landings to and from points on A. C. L. R. R. Through routes and joint rates, 309.

Cambridge district, Ohio, to Lake Erie ports for transshipment. Bituminous coal, 159.

Canada from Princeton, Ark. Lumber and staves, 327.

Caney, Kans., to Woodward, Okla. Refined petroleum, 495.

Cannelton, Ind., to Illinois, Michigan, and Wisconsin. Lumber and other forest products; fourth section, 429.

Canton, Ohio, from Pocahontas district, W. Va. Bituminous coal, 66 (146).

Carbondale, Ill. Stoppage for treating cross-ties from Alabama and Mississippi, destined to Chicago, Ill., and Indianapolis, Ind., 305.

- Careywood, Idaho, to Ainsworth, Nebr. Cedar posts, 372.
- Cedar Rapids, Iowa, from points east of Indiana-Illinois state line. Asphalt, iron, steel, and paper, 595.
- Cedar Rapids, Iowa, from points east of Indiana-Illinois state line. Class rates, 39.
- Cedar Rapids, Iowa, from Peoria and Springfield, Ill. Commodity rates, 703.
- Cementon, Pa., to Philadelphia, Pa. Cement, 483.
- Central freight association territory. Class rates; fourth section, 475.
- Central freight association territory. Rates for the transportation of milk and cream, 601.
- Central freight association territory to Duluth, Minn. Class and commodity rates, 585.
- Central freight association territory from inland empire. Lumber and lumber products, 650.
- Central freight association territory to interior Iowa cities. Class rates, 39.
- Central freight association territory to Johnson City, Tenn., via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.
- Central freight association territory from Morehouse, Mo., via Thebes, Ill. Lumber and lumber products, 480.
- Central freight association territory from North Carolina. Cedar lumber, 536.
- Central freight association territory from Ohio, Pennsylvania, West Virginia, Kentucky, Virginia, and Tennessee mines. Bituminous coal, 66.
- Central freight association territory to Salem, Roanoke, Lynchburg, Petersburg, Norfolk, and Suffolk, Va. Class and commodity rates; fourth section, 388.
- Central freight association territory to upper group cities in Iowa. Class rates, 20.
- Chapman, Ala., to Cairo, Ill., reconsigned to Bridgewater, Mich. Yellow-pine lumber, 307.
- Chapman, Pa., to Savannah, Ga., and Jacksonville, Fla. Cement, 492.
- Charleston, W. Va. Failure to stop shipment of lumber from Quick, W. Va., to be milled and shipped to Buffalo, N. Y., 368.
- Chester, Pa. Demurrage on coal and coke, 677.
- Chicago, Ill., from Alabama and Mississippi, stopped for treating at Carbondale, Ill. Cross-ties, 305.
- Chicago, Ill., from Emmett, Idaho, and reconsigned to Liberal, Kans., and subsequently reconsigned to Greensburg, Kans., and later to Pratt, Kans. Prunes, 510.
- Chicago, Ill., from Huntingburg, Ind. Lumber and other forest products, 429.
- Chicago, Ill., from Indiana. Milk, 601.
- Chicago, Ill., to Johnson City, Tenn., via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.
- Chicago, Ill., from Kansas City, Mo., stored in transit at Leavenworth, Kans. Wheat 359.
- Chicago, Ill., from Lannon, Wis. Crushed and rough stone, 320.
- Chicago, Ill., to and from Mitchell, S. Dak. Class and commodity rates, 1 (14-15).
- Chicago, Ill., from St. Paul and Minneapolis, Minn. Green salted hides, 403.
- Cincinnati, Ohio, to and from Indianapolis, Ind., on traffic destined to or originating in southeastern territory. Class rates, 547.
- Cincinnati, Ohio, to Johnson City, Tenn., originating beyond, via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.
- Cincinnati, Ohio, from points south of the Ohio River. Milk and cream, 601.
- Clayton, La., from Bridge Junction, Ark., originating at Lepanto, Ark. Piling, 445.
- Cleveland, Ohio, from Connellsville district, Pa. Bituminous coal, 66.
- Cleveland, Ohio, to Florence, Ala. Iron castings, forgings, nuts, and bolts, 373.
- Cleveland, Ohio, to Johnson City, Tenn., via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.
- Cleveland, Ohio, from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.

Cleveland territory from Connellsville district, Pa. Bituminous coal, 66.
Coffeyville, Kans., to Woodward, Okla. Refined petroleum, 495.
Colorado to Los Angeles, Cal. Hogs, 401.
Columbus, Ohio, from Appalachia district. Bituminous coal, 66.
Columbus, Ohio, from C. F. A. territory. Cream, 601.
Conneaut Harbor, Ohio, from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.
Connellsville district, Pa., to Lake Erie ports for transshipment. Bituminous coal, 159.
Connellsville district, Pa., to Youngstown and Cleveland, Ohio. Bituminous coal, 66.
Crescent region to Ohio, Michigan, and Indiana. Bituminous coal, 66.
Cumberland, Wyo., to South Dakota. Coal, 628.
Cumberland-Piedmont district to Lake Erie ports for transshipment. Bituminous coal, 159.
Davenport, Iowa, from Buffalo, N. Y., Pittsburgh, Pa., and points in C. F. A. territory. Class rates, 20.
Deepwater, Mo., to Elliott, Iowa, via Kansas City, Mo. Sewer pipe, 513.
Delhi, La., to New Orleans, La., and other Mississippi River crossings. Cotton and cotton linters, 451 (456).
Denver, Colo., from eastern territory. Commodity rates; fourth section, 236 (251).
Des Moines, Iowa, from points east of Indiana-Illinois state line. Asphalt, iron, steel, and paper, 595.
Des Moines, Iowa, from points east of Indiana-Illinois state line. Class rates, 39.
Des Moines, Iowa, from Peoria and Springfield, Ill. Commodity rates, 703.
Detroit, Mich. Reconsignment charges on coal, 231.
Detroit, Mich., from Huntingburg, Ind. Lumber and other forest products, 429.
Douglas, Ariz., from New Mexico. Ore and concentrates, 297.
Dryden, Tex., to Middlewater, Tex., stopped at El Paso, Tex., for feeding and resting. Cattle, 322.
Dubuque, Iowa, from Buffalo, N. Y., Pittsburgh, Pa., and points in C. F. A. territory. Class rates, 20.
Dubuque, Iowa, from trunk line territory. Class rates, 63.
Dugger, Ind., from Allison Branch, Ill. Sand and gravel, 412.
Duluth, Minn., to Mitchell, S. Dak. Class and commodity rates, 1.
Duluth, Minn., from trunk line and C. F. A. territory. Class and commodity rates, 585.
East Liverpool, Ohio, to San Francisco and Los Angeles, Cal. Earthenware, 314.
Eastern cities from Mobile, Ala., and other Gulf ports and south Atlantic ports, and points in Alabama, Mississippi, Tennessee, and Georgia. Cotton; fourth section, 712.
Eastern territory to Pacific coast terminals and intermediate points. Commodity rates, 236.
Edwardsport, Ind., from Allison Branch, Ill. Sand and gravel, 412.
El Paso, Tex. Stoppage in transit for feeding and resting of cattle, shipped from Dryden, Tex., to Middlewater, Tex., 322.
Elizabethport, N. J. Demurrage rules on coal for transshipment, 657.
Elliott, Iowa, from Deepwater, Mo., via Kansas City, Mo. Sewer pipe, 513.
Elliston, Va., from Huntington, W. Va. Class rates, 432.
Emmett, Idaho, to Chicago, Ill., and reconsigned to Liberal, Kan., and subsequently reconsigned to Greensburg, Kans., and later to Pratt, Kans. Prunes, 510.
Erie, Pa., from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.

- Erie, Pa., to San Francisco, Cal. Tandem steam rollers, 317.
- Evansville, Ind., to Illinois, Michigan, and Wisconsin. Lumber and other forest products; fourth section, 429.
- Evansville, Pa., to Savannah, Ga., and Jacksonville, Fla. Cement, 492.
- Fair Bluff, N. C., to Norfolk, Richmond, and other Virginia gateways. Lumber, 622.
- Fairmont, N. C., to Norfolk, Richmond, and other Virginia gateways. Lumber, 622.
- Fairmont district, W. Va., to Lake Erie ports for transshipment. Bituminous coal, 159.
- Fairport Harbor, Ohio, from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.
- Fargo, N. Dak., to St. Paul, Minn. Junk, 399.
- Fayetteville, Ark. Interchange of traffic, 464.
- Fenton, Mich., from Kentucky, West Virginia, and Ohio mines. Coal, 407.
- Fierro, N. Mex., to Douglas, Ariz. Ore and concentrates, 297.
- Five Points, Utah, to Butte, Mont. Canned goods, 447.
- Florence, Ala., from Cleveland, Ohio. Iron castings, forgings, nuts, and bolts, 373.
- Florence, S. C., from Wilmington, N. C. Salt, 478.
- Fond du Lac, Wis., from St. Paul and Minneapolis, Minn. Green salted hides, 403.
- Fort Dodge, Iowa, from points east of Indiana-Illinois state line. Class rates, 39.
- Fort Madison, Iowa, from Buffalo, N. Y., Pittsburgh, Pa., and points in C. F. A. territory. Class rates, 20.
- Fruitland, Md., from Troy, Ala., reconsigned at Macon, Ga. Gum hoops, 361.
- Galveston, Tex., to and from Houston, Tex. Operation of boat lines, 378.
- Galveston, Tex., from Louisiana, for export. Cotton and cotton linters, 451.
- Galveston, Tex., from Pacific coast, destined to Atlantic seaboard. Commodity rates, 236.
- Geneva, Ill., from Janesville, Wis. Buckwheat flour, 442.
- Georgia to Gulf ports, south Atlantic ports, Ohio and Mississippi River crossings, and eastern cities. Cotton; fourth section, 712.
- Georgia to Natchez, Miss. Lime, 60.
- Georgia to New Orleans, La. Cotton, 712.
- Gibbsland, La., to New Orleans, La., and other Mississippi River crossings. Cotton and cotton linters, 451 (456).
- Glen Rock, Wyo., to South Dakota. Coal, 628.
- Goldsboro, N. C., to Norfolk, Richmond, and other Virginia gateways. Lumber, 622.
- Grand Rapids, Mich., from Huntingburg, Ind. Lumber and other forest products, 429.
- Grand Rapids, Mich., from West Virginia mines. Bituminous coal, 66 (96).
- Green line territory to and from Ohio River crossings, on traffic destined to or originating at Indianapolis, Ind. Class rates, 547.
- Greensburg, Kans., from Emmett, Idaho, reconsigned at Chicago, Ill., and subsequently reconsigned at Liberal, Kans., and later to Pratt, Kans. Prunes, 510.
- Greenville, N. J., to Portland, Oreg. Gas cooking stoves and parts, 354.
- Greenville, Pa. Fabrication in transit charges, 641.
- Gulf ports from Alabama, Mississippi, Tennessee, and Georgia. Cotton; fourth section, 712.
- Gulf ports from Louisiana, for export. Cotton and cotton linters, 451.
- Hankow, China, to Vancouver, B. C., destined to New York, N. Y. Powdered egg yolk and flaked egg albumen, 290.
- Hanna, Wyo., to South Dakota. Coal, 628.
- Harlowton, Mont., from St. Louis, Mo., and Monmouth and Macomb, Ill. Stoneware, 331.
- Hawesville, Ky., to New York, N. Y. Eggs, 325.
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Henderson, Ky., from Cairo, Ill. Egg-case material and box shooks, 693 (701).
Hocking district, Ohio, to Lake Erie ports for transshipment. Bituminous coal, 159.
Hollow Rock Junction, Tenn., from Cairo, Ill. Egg-case material and box shooks, 693 (700).
Hopewell, Va., from New York, N. Y. Crude sulphur, 363.
Houston, Tex., to and from Galveston, Tex. Operation of boat lines, 378.
Hudson, Wyo., to South Dakota. Coal, 628.
Huntingburg, Ind., to Illinois, Wisconsin, and Michigan. Lumber and other forest products, 429.
Huntington, W. Va., to Matewan and Bluefield, W. Va., and Salem and Elliston, Va. Class rates, 432.
Hurley, N. Mex., to Douglas, Ariz. Ore and concentrates, 297.
Huron, Ohio, from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.
Idaho to C. F. A. territory. Lumber and lumber products, 650.
Idaho from eastern territory. Commodity rates; fourth section, 236 (262).
Idaho to Los Angeles, Cal. Hogs, 401.
Idaho to Los Angeles, Cal. Wheat, 645.
Illinois from Huntingburg, Ind. Lumber and other forest products, 429.
Illinois from Princeton, Ark. Lumber and staves, 327.
Illinois mines to Muscatine, Iowa. Coal, 450.
Indiana from Allison Branch, Ill. Sand and gravel, 412.
Indiana to Chicago, Ill. Milk, 601.
Indiana from Pennsylvania, Ohio, West Virginia, Kentucky, Virginia, and Tennessee mines. Bituminous coal, 66.
Indiana from Princeton, Ark. Lumber and staves, 327.
Indiana-Illinois state line, points east of, to interior Iowa cities. Asphalt, iron, steel, and paper, 595.
Indiana-Illinois state line, points east of, to interior Iowa cities. Class rates, 39.
Indiana-Illinois state line, points east of, to upper group cities in Iowa. Class rates, 20.
Indianapolis, Ind., from Alabama and Mississippi, stopped for treating at Carbondale, Ill. Cross-ties, 306.
Indianapolis, Ind., to and from Ohio River crossings, and Thebes, Ill., on traffic originating in or destined to southeastern territory. Class rates, 547.
Inland empire to C. F. A. territory. Lumber and lumber products, 650.
Interior Iowa cities from points east of Indiana-Illinois state line. Asphalt, iron, steel, and paper, 595.
Interior Iowa cities from points east of Indiana-Illinois state line. Class rates, 39.
Interior Iowa cities from Springfield and Peoria, Ill. Commodity rates, 703.
Iowa from points east of Indiana-Illinois state line. Asphalt, iron, steel, and paper, 595.
Iowa to Kansas, and La Junta, Colo. Class rates, 488.
Iowa from Peoria and Springfield, Ill. Commodity rates, 703.
Iowa from Princeton, Ark. Lumber and staves, 327.
Iowa cities from C. F. A. territory, Pittsburgh, Pa., and Buffalo, N. Y. Class rates, 20.
Iowa cities from trunk line territory. Class rates, 63.
Jackson, Mich., from Ohio and West Virginia mines. Bituminous coal, 66 (93).
Jacksonville, Fla., to and from points on the Caloosahatchee River. Through routes and joint rates, 309.
Jacksonville, Fla., from Evansville and Chapman, Pa. Cement, 492.
Janesville, Wis., to Geneva, Ill. Buckwheat flour, 442.
Jersey City, N. J. Demurrage on coal and coke, 677.

- Johnson City, Tenn., from Cincinnati, Ohio, originating beyond, via Speer's Ferry or St. Paul, Va. Class and commodity rates, 527.
- Jonquiere, Quebec, to Wilkes-Barre, Pa. News print paper, 397.
- Kalamazoo, Mich., from Ohio and West Virginia mines, and Pittsburgh district. Bituminous coal, 66 (95).
- Kalamazoo, Mich., to Spokane, Wash. Sleighs, runners, poles, and shafts, 333.
- Kanawha district, W. Va., to Lake Erie ports for transshipment. Bituminous coal, 159.
- Kansas to Arizona. Flour, 299.
- Kansas from Iowa. Class rates, 488.
- Kansas from Princeton, Ark. Lumber and staves, 327.
- Kansas to Salina, Kans., milled and reshipped to Kansas City, Mo., for beyond. Wheat, 467.
- Kansas City, Mo., to Beloit, Kans. Refrigerators, 421.
- Kansas City, Mo., to Chicago, Ill., stored in transit at Leavenworth, Kans. Wheat, 359.
- Kansas City, Mo., to Elliott, Iowa, originating at Deepwater, Mo. Sewer pipe, 513.
- Kansas City, Mo., from Marquette, Mich. Pig iron, 329.
- Kansas City, Mo., to Mitchell, S. Dak. Class and commodity rates, 1.
- Kansas City, Mo., from Salina, Kans., for beyond. Flour and bran, 467.
- Kearney, Nebr., to Omaha, Nebr., rebilled to Owensboro, Ky. Alfalfa meal, 437.
- Kenosha, Wis., from St. Paul and Minneapolis, Minn. Green salted hides, 403.
- Kenova, W. Va., from Trebein and Leesburg, Ohio. Grain and grain products, 388.
- Kentucky from Cairo, Ill. Egg-case material and box shooks, 693.
- Kentucky from Huntington, W. Va. Class rates, 432.
- Kentucky to Natchez, Miss. Lime, 60.
- Kentucky from Trebein and Leesburg, Ohio. Grain and grain products, 388.
- Kentucky mines to Fenton, Mich. Coal, 407.
- Kentucky mines to Lake Erie ports for transshipment. Bituminous coal, 159.
- Kentucky mines to Ohio, Indiana, and Michigan. Bituminous coal, 66.
- Keokuk, Iowa, from Buffalo, N. Y., Pittsburgh, Pa., and points in C. F. A. territory. Class rates, 20.
- Keokuk, Iowa, from trunk line territory. Class rates, 63.
- Kirby, Wyo., to South Dakota. Coal, 628.
- La Fayette, Ind., from Ohio and West Virginia mines. Bituminous coal, 66 (83).
- La Junta, Colo., from Iowa. Class rates, 488.
- Lake Charles, La., from California. Rough rice, 661.
- Lake Charles, La., to trunk line and Atlantic seaboard territories. Clean rice, 661.
- Lake Erie ports from Pennsylvania, West Virginia, Kentucky, Ohio, Virginia, and Maryland mines, for transshipment. Bituminous coal, 159.
- Lannon, Wis., to Chicago, Ill. Rough and crushed stone, 320.
- Leavenworth, Kans. Storage in transit on wheat, shipped from Kansas City, Mo., to Chicago, Ill., 359.
- Leesburg, Ohio, to West Virginia, Virginia, and Kentucky. Grain and grain products, 388.
- Legarde, Ala., to Natchez, Miss. Lime, 60.
- Lepanto, Ark., to Bridge Junction, Ark., destined to Clayton, La. Piling, 445.
- Lexington, Ky., to Philadelphia, Pa. Crude barytes, 515.
- Lexington, Tenn., from Cairo, Ill. Egg-case material and box shooks, 693 (700).
- Liberal, Kans., from Emmett, Idaho, reconsigned at Chicago, Ill., and subsequently reconsigned to Greensburg, Kans., and later to Pratt, Kans. Prunes, 510.
- Lorain, Ohio, from Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Ohio mines, for transshipment. Bituminous coal, 159.
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- Los Angeles, Cal. Industrial switching, 665.
 Los Angeles, Cal. Switching charges on wheat, 645.
 Los Angeles, Cal., from Baltimore, Md. Bottle openers, 415.
 Los Angeles, Cal., from East Liverpool and Niles, Ohio. Earthenware, 314.
 Los Angeles, Cal., from Idaho, Oregon, Colorado, and Utah. Hogs; feeding, watering, and resting in transit, 401.
 Louisiana to New Orleans, La., and other Mississippi River crossings, Gulf ports, and points east of the Mississippi River. Cotton and cotton linters, 451.
 Louisiana to St. Paul and Minneapolis, Minn. Rosin and turpentine, 523.
 Louisiana to Smithville, Brookshire, and Spring, Tex. Crockeries, 469.
 Louisiana to various destinations. Lumber; allowances, 501.
 Lynchburg, Va., from C. F. A. territory. Class and commodity rates; fourth section, 388.
 Lyons, Ind., from Allison Branch, Ill. Sand and gravel, 412.
 Macomb, Ill., to Billings and Harlowton, Mont. Stoneware, 331.
 Macon, Ga. Reconsignment in transit charges on gum hoops, from Troy, Ala., to Fruitland, Md., 361.
 Maine from Lake Charles, La. Clean rice, 661.
 Marco, Ind., from Allison Branch, Ill. Sand and gravel, 412.
 Marion, Ind., from Ohio and West Virginia mines. Bituminous coal, 66 (83).
 Marquette, Mich., to Kansas City, Mo. Pig iron, 329.
 Marshall, Tex., from Waterloo, Iowa. Refrigerators, 421.
 Marshalltown, Iowa, from points east of Indiana-Illinois state line. Asphalt, iron, steel, and paper, 595.
 Marshalltown, Iowa, from points east of Indiana-Illinois state line. Class rates, 39.
 Marshalltown, Iowa, from Peoria and Springfield, Ill. Commodity rates, 703.
 Maryland from Lake Charles, La. Clean rice, 661.
 Maryland to Washington, D. C. Cream, 541.
 Maryland mines to Lake Erie ports for transshipment. Bituminous coal, 159.
 Maryland mines to Ohio, Indiana, and Michigan. Bituminous coal, 66.
 Mason City, Iowa, from points east of Indiana-Illinois state line. Class rates, 39.
 Massachusetts from Lake Charles, La. Clean rice, 661.
 Matewan, W. Va., from Huntington, W. Va. Class rates, 432.
 Memphis, Tenn., from Cairo, Ill. Egg-case material and box shooks; fourth section, 693.
 Memphis, Tenn., from Louisiana. Cotton and cotton linters, 451.
 Memphis, Tenn., to Ripley and Pontotoc, Miss. Cement and lime, 473.
 Memphis, Tenn., from Waterloo, Iowa. Refrigerators, 421.
 Meyersdale district, Pa., to Lake Erie ports for transshipment. Bituminous coal, 159.
 Michigan from Huntingburg, Ind. Lumber and other forest products, 429.
 Michigan from Pennsylvania, Ohio, West Virginia, Virginia, Kentucky, and Tennessee mines. Bituminous coal, 66.
 Michigan from Princeton, Ark. Lumber and staves, 327.
 Middlewater, Tex., from Dryden, Tex., stopped at El Paso, Tex., for feeding and resting, 322.
 Mile Post 604, Ga., to St. Louis, Mo. Lumber, 365.
 Milwaukee, Wis., from Huntingburg, Ind. Lumber and other forest products, 429.
 Milwaukee, Wis., from St. Paul and Minneapolis, Minn. Green salted hides, 403.
 Minneapolis, Minn. Transit rules on grain, 685.
 Minneapolis, Minn., to Chicago and Morris, Ill., and Milwaukee, Kenosha, Fond du Lac, Sheboygan, Sheboygan Falls, and Wauwatosa, Wis. Green salted hides, 403.
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- Tennessee to New Orleans, La. Cotton, 712.

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ABANDONMENT OF CLAIM. *See* **Limitation of Action.**

ADJACENT FOREIGN COUNTRY. *See also* **Jurisdiction.**

The Commission can not prescribe joint through rates from points in an adjacent or nonadjacent foreign country to points in the United States, but it can control the charges for that portion of the service rendered by carriers in the United States. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (292).

ADJUSTMENT OF RATES.

The peculiar position of certain short distance points ought not to control the adjustment of rates over a large territory. *Louisiana Cotton*, 451 (454).

It has been repeatedly held that an unreasonable rate may not be permitted to stand merely because if reduced other readjustments might follow. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.*, 480 (481).

In a readjustment of rates involving both increases and reductions, reparation in many cases has been denied. In such instances the revision is intended to bring the entire future rate structure into closer harmony with the conditions surrounding the service. *Delaware, Lackawanna & Western Coal Co. v. D., L. & W. R. R. Co.* 506 (510).

Table showing number of increases and reductions in the rates on anthracite coal from Pennsylvania to tidewater and other points. *Id.* (508).

Rates on coal from Wyoming mines to points in South Dakota on the lines of the C. & N. W. and C., M. & St. P. railways, between Rapid City and the Missouri River, shown to be improperly adjusted as compared with the rates maintained by the same carriers from the same mines for similar distances in Nebraska and North Dakota. *Coal to South Dakota*, 628 (635).

ADMINISTRATIVE RULINGS.

Conference Ruling No. 204, cited. *Fargo Iron & Metal Co. v. G. N. Ry. Co.* 399 (400).

Conference Ruling No. 206 (c) and (d): Claim for reparation based on decision in former case in which no reparation was asked or awarded, denied herein, following conference ruling 206 (c) and (d). *Andersch Bros. v. C. & N. W. Ry. Co.* 403 404).

Conference Ruling No. 239, cited. *Jewel Tea Co. v. P. Co.* 314 (316).

Conference Ruling No. 286 (f): Where routing instructions name a specific rate that does not apply via the route designated, it is the duty of the carrier to secure further instructions. *Earle Fruit Co. v. O. S. L. R. R. Co.* 510 (511).

Rule 5 (b), *Tariff Circular 18-A*, cited. *Rosenblatt v. L., H. & St. L. Ry. Co.* 325; *Bushnell v. St. L. & S. F. R. R. Co.* 445.

Rule 8 (f), *Tariff Circular 18-A*: Object of, is to afford shippers a means of determining what rates are in effect by consulting the tariffs and effective supplements. *Jewel Tea Co. v. P. Co.* 314 (316).

Rule 9 (c), *Tariff Circular 18-A*, cited. *Jewel Tea Co. v. P. Co.* 314 (315).

ADMINISTRATIVE RULINGS—Continued.

Rule 77, Tariff Circular 18-A. The effect of the failure of carrier to establish rates at intermediate points in conformity to, fully discussed in *Missouri River Building Stone Rates*, 28 I. C. C. 269 and need not be repeated here. *Price Bros. & Co. v. C. N. Ry. Co.* 397 (398).

Rule 77, Tariff Circular 18-A, cited. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515 (516); *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (753).

ADVANCE IN RATES.

In general:

Proposed elimination of two industries from list of industries on the M., K. & T. Ry. of Texas within the switching limits of Waco, Tex., and the establishment of prepay stations whereby increased charges would result on certain shipments found not justified. Waco, Tex., Switching, 647 (649).

Coal: Proposed rates on bituminous coal from the inner and outer Crescent groups to destinations in affected territory, 15 cents per ton higher, found justified. Bituminous Coal to C. F. A. Territory, 66 (71, 145).

Coal: Proposed rates from certain districts in the inner and outer Crescent groups to Columbus, Ohio, found justified. *Id.* (145).

Coal: Rates on coal from the Pocahontas district in West Virginia to Canton, Ohio, should not exceed the rates in effect from the Pocahontas district to Cleveland, Ohio, and proposed rates found justified. *Id.* (146).

Cotton: Proposed increased rates and changed regulations and practices, on cotton from Louisiana points to Mississippi River crossings, including New Orleans when movement is interstate; to New Orleans and other Gulf ports for export; and to defined territories east of the Mississippi River, found just and reasonable except as indicated. *Louisiana Cotton*, 451 (454, 462, 463).

Sand and gravel: Increase in rates on sand and gravel from Allison Branch, Ill., to certain Indiana points, since January, 1910, constitutes an advance that carriers have not justified. Reasonable maximum rates prescribed. *Anderson-Theobald Co. v. Vandalia R. R. Co.* 412 (414).

Stoneware: Commodity rate on stoneware from Monmouth and Macomb, Ill., to Billings and Harlowton, Mont., increased since January 1, 1910, found justified. *Western Stoneware Co. v. C., B. & Q. R. R. Co.* 331 (333).

Storage: Proposed increased charges for storage of flour in the B. & O. R. R. Co.'s warehouses at Baltimore, Md., found justified. *Flour Storage*, 295 (296).

Switching charges: Proposal of the N. Y. C. R. R. Co. to increase its charge from \$3 to \$5 per car for switching between its rails and the transfer track of the C., H. & D. Ry., at Toledo, Ohio, found not justified. *Toledo Switching*, 293 (294).

AGGREGATE OF INTERMEDIATE RATES. See THROUGH AND LOCAL ALLOWANCES.

Following ruling of the Supreme Court in the *Tap Line Case*, 234 U. S., 1, no similarity in the circumstances and conditions found under which the Rock Island made allowances to certain tap lines while denying allowances out of its rate to complainant or to complainant's tap line, the *East & West Louisiana Ry.* *Davis Bros. Lumber Co. v. C., R. I. & P. R. R. Co.*, 501 (505).

AMBIGUOUS TARIFF. See Tariffs.**ANALOGOUS ARTICLES.**

Dried egg albumen and dried egg yolk are commodities separate and distinct from desiccated eggs, which consists of the dried whole egg. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (291).

Contended that bottle openers are analogous to cork pullers, but the tariff specifically prohibited the application of the rates to analogous articles. Rates found unreasonable. *Crown Cork & Seal Co. v. P. R. R. Co.*, 415.

ANALOGOUS ARTICLES—Continued.

It is impracticable to segregate sour cream from sweet cream and to fix rates for the former on a lower basis than the latter. *O. F. A. Territory Milk and Cream Rates*, 601 (605).

ANY-QUANTITY RATES.

Rates on cotton from points on the Southern Railway within a radius of 300 miles from New Orleans found unreasonable in those instances in which they exceed 50 cents per 100 pounds. *New Orleans Cotton Exchange v. L. & N. R. R. Co.*, 712 (729).

APPENDIX.

A. List of originating carriers serving the various coal districts in the Crescent and Ohio Groups. *Bituminous Coal to C. F. A. Territory*, 66 (147).

B. Memorandum of carriers to Mr. Commissioner Clements, in the matter of their application for an inquiry by the Commission into the measure of differentials in coal rates. *Id.* (149).

C. Composite statement showing average distances and per-ton-mile earnings on bituminous coal from all mines in Ohio districts taking the same rate to destinations shown. *Id.* (154).

D. Same as to Pittsburgh. *Id.* (155).

E. Same as to Pocahontas district. *Id.* (156).

F. Same as to Toledo, Ohio. *Id.* (157).

G. Production of bituminous coal in short tons, by years, from 1900 to 1916, inclusive, of the states involved in this proceeding. *Id.* (158).

Table A. Statement showing the rates on lake cargo coal, and the distances, from various originating districts to lower Lake Erie ports. *Lake Cargo Coal Rates*, 159 (195).

Table B. Table showing Lake cargo coal shipments by districts, 1911 to 1916, inclusive. *Id.* (200).

Table C. Rates on coal in carloads from representative producing districts to Lake Erie ports and to north Atlantic ports. *Id.* (201).

Table D. Average distances from originating districts to various Lake ports. *Id.* (202).

Table E. Statement showing the short tons of iron ore forwarded from the lower Lake Erie ports and the short tons of lake cargo and lake fuel coal received at such ports during the calendar years 1910 to 1914, both inclusive. *Id.* (204).

Table F. Summary of information respecting movement, loading, etc., of cars containing shipments of lake cargo coal as reported to the Commission by respondent carriers on Forms Nos. 1 and 1-A of S. R. S. Circular No. 26. *Id.* (206).

Table G. Summary of information with respect to the locomotives, trains, cars, etc., used in transportation of lake cargo coal reported to the Commission on Form No. 2. S. R. S. Circular No. 26. *Id.* (210).

Table H. Statement showing the fluctuations in the average price paid for materials and supplies and certain classes of equipment by various roads. *Id.* (214).

Table I. Comparative statement showing property investment and income account of representative roads for the years ended June 30, 1912, 1915, and 1916. *Id.* (227).

Table J. Revenues and expenses of 16 representative roads for the months July to December, 1916, compared with the corresponding months for 1915. *Id.* (228).

Table K. Statement showing the investment in and the results from the operation of coal docks for the year ended June 30, 1913, to 1916, inclusive. *Id.* (230).

AUTOMOBILES.

Because of rates in effect on automobiles to Johnson City, Tenn., dealers found it cheaper to have shipments made to Bristol, Tenn.-Va. and bring them to Johnson City under their own power. *Chamber of Commerce of Johnson City, Tenn., v. S. Ry. Co.*, 527 (533).

AVERAGE AGREEMENT.

Contention that demurrage rules on cars of coal at Elizabethport, N. J., for transshipment, are unreasonable because they do not provide that where cars are not unloaded in the order of their arrival the unloading of a car received at a later date shall be construed to be the release of a car received at an earlier date, not sustained. Object of the average agreement is to permit the handling of cars without regard to the exact order of arrival. *Meeker v. C. R. R. Co. of N. J.*, 657 (658).

Substitution of detention has been amply provided for in every instance where the average agreement is in effect. *Id.* (658).

AVERAGES.

Table showing the average of distances, rates, and per-ton-mile earnings on bituminous coal from the Crescent groups to representative points in "affected" territory. Bituminous Coal to C. F. A. Territory, 66 (108).

Table showing the average distances and rates on lump coal from mines in Wyoming and Montana to destinations in North Dakota, South Dakota, and Nebraska. Coal to South Dakota, 628 (636).

BILLING.

It is well settled that the character and nature of the movement of the traffic, and not the mere accidents of billing, determine the nature of the commerce and the rate applicable. *Madero v. E. P. & S. W. R. R. Co.* 322 (324).

Shipments of piling from Lepanto, Ark., billed to official of St. L., I. M. & S. Ry. Co. at Bridge Junction, Ark., then hauled as company material to Clayton, La., were interstate shipments and interstate factor to Bridge Junction was legally applicable. *Bushnell v. St. L. & S. F. R. R. Co.* 445 (446).

BIRMINGHAM BELT R. R.

Map showing industries served by. *Alabama Packing Co. v. A. G. S. R. R. Co.* 335 (337).

BLANKET RATES.

As the all-rail rate on pig iron from southern furnaces to New England points is the same to all points in the blanket it would be difficult, if not impracticable, to establish a fixed differential in the absence of a blanket rate rail-water-and-rail. *Gloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (561, 562).

BLOCK RATES. See MILEAGE RATES.**BOAT LINE.**

The refusal of defendant to participate in through routes and joint rates with complainant's boat line between Caloosahatchee River landings in Florida and various destinations, while doing so with complainant's competitor results in undue prejudice to complainant which should be removed. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.* 309 (312).

Application of S. P. Co. and M. L. & T. R. R. & S. S. Co. to continue operation of navigation company between Houston and Galveston, Texas, granted under the existing conditions. *Direct Navigation Co.* 378 (382).

BOAT SERVICE.

Organizing boat service on the Mississippi River is a matter far more simple and inexpensive than organizing a regular service between the coasts of the United States capable of exercising a material influence upon rail rates. *Transcontinental Rates*, 236 (267).

BOND.

If through rates are accorded to complainant boat line and in event of failure to agree upon amount of bond for the protection of defendant in its participation in such through rates, a specific sum will be fixed by the Commission upon request. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.* 309 (313).

BOTH DIRECTIONS.

Class rates to and from Mitchell, S. Dak., from and to points east or south of Sioux City, Iowa, and Sioux Falls, S. Dak., found unduly prejudicial and unreasonable to extent they exceed rates composed of proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and Sioux Falls. Rates prescribed. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (12, 15).

From Pittsburgh, Buffalo, and points taking the same rates to cities on the west bank of the Mississippi River from and including Dubuque on the north and including St. Louis on the south, the class rates shall not exceed 64½ per cent of the rates maintained between New York City and St. Louis. The basis herein found proper will apply both eastbound and westbound, commodity rates to be adjusted accordingly. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (38).

Although eastbound tonnage over ocean-and-rail and rail-lake-and-rail routes, from Mississippi River cities to points in trunk line territory is not large compared with westbound tonnage, conclusions reached in *Mississippi River Case*, 29 I. C. C., 530, that rates in both directions should be on a parity, are properly applicable here. *R. R. Com'rs of Iowa v. A., T. & S. F. Ry. Co.* 63 (65).

Proposed increased charge for switching from N. Y. C. R. R. Co.'s rails to transfer tracks of C., H. & D. Ry., at Toledo, Ohio, would result in undue prejudice to traffic received by way of the C., H. & D., and delivered to N. Y. C.'s rails and to similar traffic in the opposite direction. Increase found not justified. *Toledo Switching*, 293 (294).

Rates from Buffalo and Pittsburgh to west-bank Lake Michigan ports lower than to intermediate points in Zone C, east-bank ports, authorized. As the situation eastbound is relatively the same as westbound, relief will be granted on the same conditions. *C. F. A. Class Scale Case*, 475 (477).

BRIDGE TOLL.

Except on traffic over the Illinois Central via Louisville the transportation from Cairo to the east does not involve a bridge toll such as is incurred in transportation from St. Louis to the east. *Cairo Board of Trade v. C., C. & St. L. Ry. Co.* 343 (344).

In order to secure the movement of lumber traffic from Morehouse, Mo., through Thebes, Ill., the C. & E. I. includes the cost of the bridge haul at Thebes, in the rate beyond that point. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (482).

BRIDGES.

The Commission has frequently recognized the cost of bridges across such rivers as the Ohio and the Mississippi in connection with the movement of both freight and passenger traffic. Cases cited where such costs were given consideration. *Bituminous Coal to C. F. A. Territory*, 68 (129).

The fact that lake cargo coal from West Virginia and Kentucky to Ohio must cross the Ohio River on costly bridges is entitled to consideration in the fixing of differentials. *Lake Cargo Coal Rates*, 159 (188).

Cairo bridge given consideration. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (696).

BUFFALO, N. Y.

History of its development as a railroad center and primary grain market. *Buffalo Grain Cases*, 570 (581).

BULK.

Sixth-class rate on crude sulphur, in bulk, not shown unreasonable as compared with commodity rate applicable on sulphur in packages, and subsequently established on sulphur in bulk. *Du Pont de Nemours Powder Co. v. P. R. R. Co.* 363 (364).

BURDEN OF PROOF.

Parties seeking to have original order set aside should assume the burden of sustaining the attack. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (561).

CANADA.

Charges on dried egg yolk and dried egg albumen from Vancouver, Canada, to New York, N. Y., originating in China, at second-class import rate, not shown unreasonable or otherwise in violation of the act for that portion of the transportation within the United States. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (292).

Rate on news print paper from Jonquiere, Quebec, to Wilkes-Barre, Pa., not shown unreasonable because of carrier's failure to promptly provide for application of lower rate in effect to farther distant point. *Price Bros. & Co. v. C. N. Ry. Co.* 397 (398).

CAR EARNINGS.

Sand: Per car earnings on sand and gravel shown on shipments from Allison Branch, Ill., and Emison, Ind., to Indiana destinations. *Anderson-Theobald Co. v. Vandalia R. R. Co.* 412 (413).

CAR-MILE EARNINGS. *See also AVERAGES, EARNINGS, TON-MILE REVENUE.* Table showing the average car-mile earnings of all carload traffic and the average carload of revenue freight on some of the western railroads for the year ending June 30, 1916. *Transcontinental Rates*, 236 (258).

CAR NUMBER.

Carrier failed to transmit routing instructions and correct car number, resulting in demurrage and switching charges. Reparation awarded. *Schuh-Mason Lumber Co. v. M. & O. R. R. Co.* 365 (367).

CAR SHORTAGE.

Reconsignment charge of \$2 per car established as an incentive to the direct billing of carload freight to places of final delivery within New York lighterage limits, and having for its object the relief of the congestion and car shortage situation at New York, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (670).

CARLOAD AND LESS-THAN-CARLOAD.

Carload traffic from the east to the interior Iowa cities moves through without breaking bulk, while l. c. l. traffic is rehandled either at Chicago, Peoria, or East St. Louis, the principal junctions between the eastern and western lines. *Interior Iowa Case*, 39 (43).

Carload and l. c. l. commodity rates to Pacific coast points which have been depressed on account of water competition should have some relief from the long and short haul rule under normal conditions and when competition again becomes sufficiently controlling the matter may again be brought to the attention of the Commission. *Transcontinental Rates*, 236 (276).

CARRIER COMPETITION. See COMPETITION (CARRIER).**CARS.**

The desirability, especially at the present time, of utilizing cars to the fullest extent is well recognized. *Louisiana Cotton*, 451 (454).

CHARACTERISTICS OF COMMODITY.

Coal: Qualities of coal refer to the impurities and involve a consideration of the amount of ash, sulphur, dirt, and other foreign substances in the coal. *Bituminous Coal to C. F. A. Territory*, 66 (119).

CHARACTERISTICS OF COMMODITY—Continued.

Coal: Value and quality of coal produced in West Virginia, Pennsylvania, and Ohio, for manufacturing purposes, and to the extent each competes with the other, described. *Id.* (120-121).

Coal: Coal produced in the Pittsburgh district is used principally for producing steam and gas, and for domestic purposes, while that in the Connellsville district is especially adapted for the production of coke. *Lake Cargo Coal Rates*, 159 (170).

Cotton: Transportation peculiarities of cotton and the additional expense of handling it over the ordinary cost of handling commodities generally, shown. *Louisiana Cotton*, 451 (461).

CIRCUITOUS ROUTES. *See also* Long and Short Haul.

Application of direct line rates via circuitous routes through points taking higher rates in c. f. a. territory, authorized except when the distance via the circuitous route is unduly great. *C. F. A. Class Scale Case*, 475 (477).

CIRCUMSTANCES AND CONDITIONS.

Impelling causes of the carriers' action in applying to the Commission for an investigation. *Bituminous Coal to C. F. A. Territory*, 66 (117).

No distinction can be made between the circumstances and conditions surrounding the transportation of fabricated material for use in the construction of towers, tanks, etc., and those surrounding the transportation of the same material for use in construction of bridges and buildings. *Chicago Bridge & Iron Co. v. E. R. R. Co.* 641 (644).

CLASS AND COMMODITY RATES.

The Mississippi-Missouri river proportional class scale, shall be equitably prorated across the state of Iowa in constructing reasonable maximum proportional class rates between the west bank of the Mississippi River and interior Iowa cities on traffic originating at or destined to points in official classification territory west of the Indiana-Illinois state line. Commodity rates to be adjusted accordingly. *Interior Iowa Cases*, 39 (59-60).

If carriers desire to continue commodity rates on certain articles to the Pacific coast which are less than the class rates applicable thereto, the rates to intermediate points on the same articles should be constructed in such manner that they bear to the class rates to the intermediate points the same proportion as the readjusted commodity rates to the Pacific coast bear to the class rates to the coast. *Transcontinental Rates*, 236 (274).

Sixth-class rate on crude sulphur, in bulk, not shown unreasonable as compared with commodity rate applicable on sulphur in packages, and subsequently established on sulphur in bulk. *Du Pont de Nemours Powder Co. v. P. R. R. Co.* 363 (364).

Former decision prescribing reasonable maximum class and commodity rates on grain products from Trebein and Leesburg, Ohio, to points on the Norfolk & Western Ry. between Kenova, W. Va., and Roanoke, Va., affirmed on rehearing. *Dewey Bros. Co. v. P., C., & St. L. Ry. Co.* 388 (396).

Second-class rates on bottle openers from Baltimore, Md., to Seattle, Wash., and San Francisco and Los Angeles, Cal., found unreasonable to the extent they exceeded commodity rates applicable on can openers. Reparation awarded. *Crown Cork & Seal Co. v. P. R. R. Co.* 415 (417).

The general basis of rates on oil in western classification territory is fifth class; but in numerous instances the carriers in recognition of the volume of the traffic, have established commodity rates, which in some cases are but 40 per cent of the class rate. *Kanotex Refining Co. v. A., T. & S. F. Ry. Co.* 495 (498).

CLASS AND COMMODITY RATES—Continued.

Sixth-class rate on crude barytes from Lexington, Ky., to Philadelphia, Pa., found unreasonable to the extent it exceeded commodity rate subsequently established. Reparation awarded. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515 (517).

Class and commodity rates on traffic from Cincinnati, or through Cincinnati from beyond, to Johnson City, Tenn., by way of St. Paul or Spear's Ferry found to subject Johnson City to undue prejudice and Bristol, Tenn., Va., to undue preference. *Chamber of Commerce of Johnson City, Tenn., v. S. Ry Co.* 527 (534).

Rail-and-lake rates to Duluth on commodities from points east of the Indiana-Illinois state line should be less than the differential prescribed in the *Duluth Case*, 27 I. C. C., 639, of the class to which the commodity belongs, and all commodity rates which fail to maintain such differential are unduly prejudicial to Duluth and unjustly preferential of the twin cities. *Second Duluth Case*, 585 (590).

A comparison of the rates on lumber from the inland empire to c. f. a. territory, with the class rates is not convincing. In western classification territory there is no fixed relation between the rates on lumber and any of the class rates. *Western Pine Mfrs.' Assn. v. C., I. & W. R. R. Co.* 650 (653).

Adjustment of class and commodity rates between the Ohio River crossings and Indianapolis and Terre Haute, and between Chicago, Peoria, Milwaukee, and Davenport, on traffic to the southeast, found to result in undue prejudice to shippers of southeastern traffic at Indianapolis and Terre Haute. *Indianapolis Chamber of Commerce v. C., C. & St. L. Ry. Co.* 547 (556).

Class rates from Chicago and Peoria to Cedar Rapids and Ottumwa compared with commodity rates, with a view to showing that the commodity rates from Peoria to the Iowa points were not made on the same basis as the class rates. *State of Iowa v. Wabash Ry. Co.* 703 (708).

CLASS RATES.

Class rates to and from Mitchell, S. Dak., from and to points east or south of Sioux City, Iowa, and Sioux Falls, S. Dak., found unduly prejudicial to extent they exceed rates composed of proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and Sioux Falls. Rates prescribed and reparation denied. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (13).

From certain points in C. F. A. territory there should be no difference in the rates to the upper group cities in Iowa on the Mississippi River and to St. Louis, when the distances are equal to or less than the distances to St. Louis; but for each 25 miles or fraction thereof that the distance to the upper group cities exceed the distances to St. Louis, rates may exceed the rates to St. Louis by 1 cent on the first two classes and one-half cent on the remaining four classes. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (38).

From Pittsburgh, Buffalo, and points taking the same rates, to cities on the west bank of the Mississippi River from and including Dubuque on the north to and including St. Louis on the south, the class rates shall not exceed 64½ per cent of the rates maintained between New York City and St. Louis. *Id.* (38).

Class rates from Huntington, W. Va., to Norfolk & Western main and branch line stations between Matewan, W. Va., and Salem, Va., inclusive, found unduly prejudicial to extent they exceed class rates in effect from Portsmouth, Ohio. *Chamber of Commerce of Huntington, W. Va., v. C. & O. Ry. Co.* 432 (437).

CLASS RATES—Continued.

Distance class rates from points in Iowa to points in Kansas on and north of the main line of the A., T. & S. F. Ry. to La Junta, Colo., moving by way of Kansas City and other lower Missouri River crossings, should not exceed those in effect from such crossings on May 31, 1914. Iowa State Board of R. R. Com'rs v. A. F. R. R. Co. 488 (491).

Fifth-class rate on refined petroleum from Kiowa, Kans., to Woodward, Okla., not found unreasonable as compared with Kansas distance rates. Kanotex Refining Co. v. A., T. & S. F. Ry. Co. 495 (499).

CLASSIFICATION.

Beer containers: Upon rehearing previous conclusion adhered to that increased ratings in the official classification on old beer cooperage, old beer bottles, and old bottle carriers have been justified. Official Classification Ratings, 383 (387).

Cotton: Application of first class rates on cotton in the absence of commodity rates found reasonable and proper. Louisiana Cotton, 451 (457).

Drums: Proposed changes in the rating on drums, returned empty or second-hand, used in the transportation of ammonia, glycerine, and various oils, to fourth class, l. c. l., and class C, carload, found justified. Empty Carrier Ratings, 520 (522).

Egg albumen and yolk, dried: Should have been rated second class in so far as transportation within the United States is concerned, on shipments moving from Vancouver, Canada, to New York, N. Y., originating in China. Western classification provided no specific rating at time of movement. Carlowitz & Co. v. C. P. Ry. Co. 290 (292).

Linomeal: Contended that as linomeal contains a small quantity of ground flaxseed it should be rated as flaxseed screenings. Held, Tariff, properly interpreted, provides for the application to linomeal of the rate on grain screenings. Tarkio Molasses Feed Co. v. C., B. & Q. R. R. Co. 17 (19).

Refrigerators: First-class rate on refrigerators, wrapped, from Waterloo, Iowa, to St. Joseph, Mo., Afton, Okla., and Marshall, Tex., and from Kansas City, Mo., to Beloit, Kans., found justified as compared with second-class rates on shipments boxed or crated. Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co. 421 (423).

Vehicles and parts: Tariff provided that when car contained not less than 25 per cent of vehicles, class A rate would apply. Contention that as more than 25 per cent of shipment of sleighs, poles, shafts, and runners from Kalamazoo, Mich., to Spokane, Wash., consisted of parts of vehicles, class A rate should apply, not sustained. Combination rate assessed not shown illegal or unreasonable. Portland Traffic & Transportation Assn. v. C., R. I. & P. Ry. Co. 333 (334).

COMMERCIAL CONDITIONS. See EQUALIZING CONDITIONS.

COMMODITY RATES.

In absence of showing the volume of movement no finding as to the commodity rates to Mitchell, S. Dak., made, but rates to Mitchell constructed in relation to the corresponding commodity rates to Sioux Falls, recommended. Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co. 1 (14).

Commodity rates are made with regard for the actual volume of movement, and relative commodity rate adjustments can only be reviewed satisfactorily when the relative volume of movement of the various commodities involved is known. Id. (14).

In instances where carriers are authorized to publish and charge lower class rates to more distant than to intermediate points, the publication of rates on commodities to intermediate points to which such commodities do not ordi-

COMMODITY RATES—Continued.

narily move will not be required if the item containing the commodity rate to the more distant point makes proper reference to described note. Second Duluth Case, 585 (594).

COMPANY MATERIAL.

Shipments of piling from Lepanto, Ark., billed to official of St. L., I. M. & S. Ry. Co. at Bridge Junction, Ark., then hauled as company material to Clayton, La., were interstate shipments and interstate factor to Bridge Junction was legally applicable. *Bushnell v. St. L. & S. F. R. R. Co.* 445 (446).

COMPARATIVE RATES. See also ANALOGOUS ARTICLES.

Bottle openers: Second-class rates on bottle openers from Baltimore, Md., to Seattle, Wash., San Francisco and Los Angeles, Cal., found unreasonable to the extent they exceeded commodity rates applicable on can openers. Reparation awarded. *Crown Cork & Seal Co. v. P. R. R. Co.* 415 (417).

Coal: Rates on coal from Ohio to points in "affected" territory compared with rates on other low-grade commodities, such as brick, sand, gravel, clay, cement, stone, salt, and lime. Bituminous Coal to C. F. A. Territory, 66 (90).

Cotton: Revenue on a carload of cotton compared with revenue derived on a carload of lumber. *Louisiana Cotton*, 451 (458).

Crossties: Rates on hewn cypress crossties from points in Louisiana to Smithville, Brookshire, and Spring, Tex., found unreasonable to the extent they exceeded the rates on cypress lumber. Reparation awarded. *Houston Tie & Lumber Co. v. M. L. & T. R. R. & S. S. Co.* 469 (470).

Crossties: The Commission has repeatedly held that the rate on crossties between given points should not exceed the rate in effect on lumber of the kind of wood from which the crossties are made. *Id.* (470).

Hides: Rates on green salted hides from St. Paul and Minneapolis, Minn., to Chicago, Ill., and Chicago rate points found unreasonable to extent they exceeded rates on packing-house products. Reparation denied. *Andersch Bros. v. C. & N. W. Ry. Co.* 403 (404).

Lime: As the rates on live stock, grain, and lumber bear no recognized relation to those on lime they are of little value for comparative purposes. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (61).

Linters, cotton: Rates on linters the same as those on cotton found reasonable and proper. *Louisiana Cotton*, 451 (453).

Lumber: It is contended that pine lumber must be considered the real foundation of the adjustment of rates on common lumber because of its great volume of movement. *Brown & Co. v. S. Ry. Co.* 536 (538).

Lumber: Rates on cedar lumber from points in North Carolina to points in O. F. A. and trunk line territories found unreasonable to the extent they exceed rates on common lumber. Reparation denied. *Id.* (540).

Lumber: It is not shown that the rates on logs from Whiteville and other North Carolina points to Virginia gateways afford a proper measure for the rates on lumber. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (626).

Milk and cream: Rates on cream, 25% higher than on milk was fully discussed in the *New England, New York*, and *Philadelphia Milk Cases*, and prescribed therein, and the same basis found reasonable for this case. *C. F. A. Territory Milk and Cream Rates*, 601 (619).

Radiators: Rate on cast-iron radiators with gas heating attachments, from New Comerstown, Ohio, to San Francisco, Cal., not found unreasonable or unduly prejudicial as compared with rate on radiators without gas heating attachments. *Gas & Electric Appliance Co. v. A., T. & S. F. Ry. Co.* 440 (442).

Screenings: Value of grain screenings compared with that of flaxseed screenings. *Tarkio Molasses Feed Co. v. C., B. & Q. R. R. Co.* 17 (18).

COMPARATIVE RATES—Continued.

Stoves, gas: Rate on gas cooking stoves and parts, from Greenville, N. J., to Portland, Oreg., not shown unreasonable as compared with rate on wood and coal burning stoves. *Northwest Gas Equipment Co. v. O.-W. R. R. & N. Co.* 354 (355).

Turpentine and rosin. Owing to differences in value and tonnage lumber is not fairly comparable with turpentine and rosin. *Barber Agency Co. v. K. & E. Ry. Co.* 523 (525).

COMPETITION. See also MEETING COMPETITION.**In general:**

Competition involves a striving between or among two or more persons or organizations for the same object. *Transcontinental Rates*, 236 (277).

Articles:

Chatts: Neither cement, brick, nor coal competes with chatts, the movement of which is irregular and confined to points at which construction work is being done. *Abel & Roberts v. M. P. Ry. Co.* 301 (302).

Coal: West Virginia coals sell in competition with each other, with other Crescent coals, and with Ohio coals in "affected" territory. *Bituminous Coal to C. F. A. Territory*, 66 (120).

Coal: West Virginia coal successfully competes with Indiana coal, in spite of a differential in favor of Indiana coal ranging from \$0.58 to \$1.05. *Id.* (126).

Coal, lake cargo: All coals moving in the lake cargo traffic are more or less competitive. *Lake Cargo Coal Rates*, 159 (189).

Radiators: Gas heating radiators compete with ordinary steam radiators, but the rate difference disclosed on shipments of radiators with gas heating attachments from New Comerstown, Ohio, to San Francisco, Cal., is not shown unduly prejudicial. *Gas & Electric Appliance Co. v. A., T. & S. F. Ry. Co.* 440 (441).

Carrier:

The Commission is not justified in sanctioning an arrangement restricting competition by excluding a boat line that seeks through routes and joint rates on the same basis as that enjoyed by its competitor. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.* 309 (312).

The V., S. & P. Ry. meets rail competition at various points in Louisiana and in order to participate in traffic to New Orleans its rates must be the same as the rates of carriers whose routes to New Orleans lie entirely within the state. *Louisiana Cotton*, 451 (455).

Cross-country: .

East of Roanoke, Va., the P., C., C. & St. L. Ry. and the C. & O. Ry. parallel one another separated by a mountain range; there is, therefore, no possibility of cross-country competition from stations on one road to intervening territory across the mountains. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.* 388 (393).

Market:

Many conditions influence the rates on lime to New Orleans, La., that are not present at Natchez, Miss. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (62).

The character and qualities of coal have played an important part in the competition between Ohio and the Crescent districts south of the Pittsburgh district. *Bituminous Coal to C. F. A. Territory*, 66 (119).

Cairo is in direct and active competition in the purchase and sale of grain, especially coarse grain, with Chicago, Peoria, and the markets on the Mississippi River. *Cairo Board of Trade v. C., C. & St. L. Ry. Co.* 343 (344).

COMPETITION—Continued.

Market—Continued.

In the purchase of grain and in the sale of grain and grain products Buffalo comes into active competition with Chicago, and with other smaller markets and milling centers throughout C. F. A. territory. *Buffalo Grain Cases*, 570 (572).

C. F. A. territory is a highly competitive lumber market and lumber from the inland empire must meet the competition of lumber from the north, south, and southeast. *Western Pine Mfrs.' Assn. v. C., I. & W. R. R. Co.* 651 (652).

Only a uniform mileage scale would preclude claims of relative maladjustment between the rival markets of Minneapolis, Milwaukee, and Chicago, and while no market desires this system to be here applied or applied generally, eventual resort to this basis may possibly be the only outcome of reiterated complaint over a complex situation which the Commission has repeatedly tried to adjust. *Minneapolis Traffic Assn. v. C., M. & St. P. Ry. Co.* 685 (692).

Potential:

A water service which for one cause or another has been abandoned may have been effective at some period in the past in reducing rail rates to a level lower than they otherwise would have been, but there may not be at present any likelihood of the restoration of that service although some of the facilities for the service are still in existence. *Transcontinental Rates*, 236 (246).

Rail and boat lines:

The Southern Pacific Co., through its subsidiary, the Galveston, Harrisburg & San Antonio, may and does compete with the navigation company between Houston and Galveston, Tex., within the meaning of the act. *Direct Navigation Co.* 378 (379).

Continued ownership and operation of navigation company between Houston and Galveston, Tex., will neither exclude, prevent, nor reduce competition on the route by water under the conditions existing. *Id.* (382).

Petition whose rails parallel water route between Houston and Galveston, Tex., by control of navigation company is in position to prevent competition by any independent water carrier. Such a situation is undesirable and the Commission will be disposed to again investigate such control. *Id.* (381).

Rail-and-water:

Boat lines have never operated into or out of east-bank Lake Michigan ports, so that rates to those points have not been affected by rail-and-water competition, as have west-bank ports. *C. F. A. Class Scale Case*, 475 (477).

Water:

The earliest rates to Natchez, Miss., and New Orleans, La., from points in the south were made in recognition of water competition on the Mississippi River, and to the extent that this influence still affects the rates on lime it is equally forceful at both markets. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (62).

Water competitive conditions are said to have been potent in the fixing of an all-rail rate to Detroit lower than would otherwise have been established. *Bituminous Coal to C. F. A. Territory*, 66 (105).

There is no existing competitive necessity by reason of water service between the two coasts which warrants the rail carriers in maintaining under present circumstances lower rates to the Pacific coast than are normal and reasonable or lower than to intermediate points. *Transcontinental Rates*, 236 (243).

COMPETITION—Continued.**Water—Continued.**

In the natural and orderly course of procedure, several months may elapse between the time when the water competition manifests itself and the time when the rail carriers can make effective such rail rates as are necessary to meet this competition. *Id.* (244).

Rail carriers, under ordinary circumstances, can not maintain a level of rates between the Atlantic and Pacific coasts, between the north Atlantic ports and ports on the south Atlantic or Gulf coast or between points on the Pacific coast that will be successful in securing any considerable amount of traffic in competition with the water carriers without fourth section relief. *Id.* (268).

The best interests of the public, of the transcontinental carriers, and of these intermountain cities in particular, will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. *Id.* (268).

Carload and l. c. l. commodity rates to Pacific coast points which have been depressed on account of water competition should have some relief from the long and short haul rule under normal conditions and when competition again becomes sufficiently controlling the matter may again be brought to the attention of the Commission. *Id.* (276).

A water compelled rate can not be taken as a measure of a reasonable rate. *Du Pont de Nemours Powder Co. v. P. R. R. Co.* 363 (364).

Rates on cotton in Louisiana were made with respect to water competition on its various rivers, bayous, and waterways. *Louisiana Cotton*, 451 (454).

Rates on cotton from points in Louisiana to New Orleans for local delivery are mainly rates which were made to meet water competition, have been held down substantially to the original basis by the state commission, and apply whether the movement is entirely within the state or not. *Id.* (454).

Force of water competition via Mississippi River and ocean-and-rail via north Atlantic ports as affecting rates on turpentine and rosin from New Orleans to St. Louis and St. Paul found not to justify the existing differences in rates between New Orleans and stations on the Kentwood & Eastern R. R. *Barber Agency Co. v. K. & E. Ry. Co.* 523 (526).

All-rail water competitive rates on pig iron from Birmingham, Ala., to interior points in Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, applying via Norfolk, not found unreasonable. *Gloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (563).

Boat competition on a natural waterway usually cheapens transportation, but tendency in recent years on eastbound grain from Chicago has been the opposite. *Buffalo Grain Cases*, 570 (573).

It is not shown that the rate on lumber from Wilmington, N. C., has not been influenced by water competition. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (624).

Rates increased with decrease in water competition. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (736).

COMPETITIVE TRAFFIC.

Tariff provided for absorption of switching charges on competitive traffic. As wheat from Idaho and Utah to Los Angeles, Cal., could have been routed via the Santa Fe from San Bernardino, Cal., such traffic was competitive within the meaning of defendant's absorption rule. *Globe Grain & Milling Co. v. L. A. & S. L. R. R. Co.* 645 (646).

COMPRESSION. *See also* TRANSIT ARRANGEMENTS (COMPRESSION).

Cost of, to shipper. Louisiana Cotton, 451 (453).

Tariff rule relative to the compression of cotton, when received uncompressed, and compressed by the carrier, found proper. *Id.* (460).

CONCENTRATION. *See* TRANSIT ARRANGEMENTS (CONCENTRATION).**CONCERT OF ACTION.**

The fact that rates were raised as a result of concerted action among the carriers does not eliminate the presence of competition in the final fixing of the adjustment. Bituminous Coal to C. F. A. Territory, 66 (83).

CONFLICTING RATES.

A commodity rate once legally established remains in effect and is the only legal rate until canceled, notwithstanding a subsequently published conflicting rate. Jewel Tea Co. v. P. Co. 314 (316).

CONGESTION. *See also* CAR SHORTAGE.

Finding and conclusions in *The Detroit Reconsigning Case*, 25 I. C. C., 392; 37 I. C. C., 274, that the assessment of a \$3 charge for reconsigning coal at Detroit which was an experiment to relieve congestion, was not unreasonable or otherwise unlawful, reaffirmed. Detroit Coal Co. v. M. C. R. R. Co. 231 (235).

Eighty per cent of the cotton transportation moves between Sept. 1 and Dec. 1, creating congested conditions at Houston and Galveston, Tex., which the navigation company aids in relieving. Direct Navigation Co. 378 (379).

CONSIGNOR AND CONSIGNEE.

Original freight charges were paid by the consignees, but certain undercharges were paid by consignors to whom reparation is awarded. Warren Fish Co. v. L. & N. R. R. Co. 375 (376).

CONSTRUCTIVE MILEAGE.

Pig-iron rates between the Atlantic ports are not constructed on a computed water mileage basis, designed for divisional purposes, as is the case generally with high-grade merchandise, but are made to meet competition of eastern pig iron, and to enable iron to move from the south beyond Norfolk in competition with barge lines. Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co. 558 (565).

CONTAINERS. *See also* EMPTY CONTAINERS.

The mere fact that a lower rate applied on coal oil in cans, boxed, from New Orleans, is not sufficient to support an award of reparation down to that basis on petroleum refined oil shipped in tank cars from North Baton Rouge, La., to Tylertown, Miss. Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co. 418 (420).

Rates on milk and cream in bottles in cases or crates should be established and maintained properly adjusted to the rates herein prescribed on shipments in cans, taking into consideration the weight and the service rendered. C. F. A. Territory Milk and Cream Rates, 601 (620).

It does not sufficiently appear that a good barrel, properly filled, loaded, and transported, is not a safe container for shipping China wood oil and soya-bean oil. Vegetable Oils Transportation, 674 (675).

Finding that shipments of China wood oil and soya-bean oil in barrels should not be required to be in iced refrigerator cars, during summer months, does not prevent carriers from declining to accept shipments in defective or unsuitable barrels. *Id.* (675).

COST OF EQUIPMENT.

Compilation showing average prices paid for locomotives, freight cars, coal and other miscellaneous articles, 1912 to 1916, and at estimated prices for 1917. Lake Cargo Coal Rates, 159 (190).

Table showing the fluctuations in the average prices paid for materials and supplies and certain classes of equipment by various roads. *Id.* (214).

COST OF OPERATION.

Table showing total cost per year, at average prices, 1912-1915, and per cent of increase at estimated cost for year 1917, six carriers. Bituminous Coal to C. F. A. Territory, 66 (111).

Estimated increases in the cost of coal and equipment, six carriers. Id. (112).

COST OF SERVICE.

It is not alone the line that can handle the traffic with the least cost that determines the question whether these proposed rates are justified. Bituminous Coal to C. F. A. Territory, 66 (115).

In arriving at the cost of service for transportation of milk and cream it is customary to select trains in which the commodities are carried in carloads. C. F. A. Territory Milk and Cream Rates, 601 (610).

COST OF TRANSPORTATION.

The cost of transporting a commodity is an element properly to be considered in deciding what is a reasonable rate, but it is not necessarily determinative in all cases. Bituminous Coal to C. F. A. Territory, 66 (112).

May be said to determine the minimum rate that may be charged, as the value of the service to the shipper marks the maximum of a reasonable rate or charge. Id. (112).

Considering increased investment, wages, and other factors, there has been but little change in the cost per unit of transporting lake cargo coal, but had the cost been reduced the Commission would not regard it as just and proper to take from the carriers all of the benefits resulting from their increased investments and the introduction of improved methods. Lake Cargo Coal Rates, 159 (168).

Statement of the cost of transportation of stone from Lannon, Wis., to Chicago, Ill., is based in part upon statistics purporting to show terminal costs at Chicago, but the Commission is not convinced of the soundness of the defendant's process of arriving at such costs. Lake Shore Stone Co. v. C., M. & St. P. Ry. Co. 320 (321).

COTTON LINTERS.

Linters are cotton; they are baled and compressed in the same manner as cotton, both weigh about the same per bale and are handled under the same conditions except as to the amount of the insurance risk. Rates on linters the same as on cotton have been approved by the Commission. Louisiana Cotton, 451 (453).

CRATES. See Packing.**CROSS-COUNTRY COMPETITION. See COMPETITION (CROSS-COUNTRY).****CUMMINS AMENDMENT.**

Present rates on ore and concentrates from points in New Mexico to Douglas, Ariz., based on value, established subsequent to hearing, are satisfactory to complainant. This disposition of the case is without prejudice to any conclusion that may be reached as to publication of rates dependent upon value, in future consideration of the Cummins amendment. Arizona Corporation Commission v. A., T. & S. F. Ry. Co. 297 (298).

DAMAGES.

No proof that undue preference found to exist has resulted in tangible injury to any of complainants, reparation, therefore, denied. Bituminous Coal to C. F. A. Territory, 66 (107).

Upon rehearing, claims for reparation of reconsignment charge of \$2 per car on shipments of coal at Detroit, upon which carriers failed to give passing notice when cars reached Toledo as suggested from the bench to relieve congestion, denied. Detroit Coal Co. v. M. C. R. R. Co. 231 (235).

DAMAGES—Continued.

Upon failure of carriers to revise rates by May 1, 1914, as suggested, order entered requiring establishment of reasonable rates by Oct. 1, 1914. Claim for reparation on shipments moving during above period, denied. The compulsory reduction of rates does not necessarily entitle shippers under the preexisting rates to reparation. *Southwestern Millers League v. A., T. & S. F. Ry. Co.* 299 (300).

Reparation has been denied on shipments moving prior to the effective date of orders reducing rates, where the rates reduced have long been in effect and when orders requiring reductions involved readjustments of rates throughout an extensive territory. *Id.* (300).

In a claim for reparation on a carload of cedar posts from Careywood, Idaho, to Ainsworth, Nebr., for alleged violation of section 4, parties stipulated that the issue should be controlled by the Commission's decision in a pending case, following which reparation is denied. *Carey v. N. P. Ry. Co.* 372.

Claim for reparation is based on decision in former case in which no reparation was asked or awarded, and where these complainants were also parties. Following conference ruling 206 (c) and (d) that in such cases reparation will not be awarded except under unusual circumstances, reparation is denied. *Andersch Bros. v. C. & N. W. Ry. Co.* 403 (404).

Allegation that denying to complainant or its tap line, the East & West Louisiana Ry., allowances out of its rate while making allowances to certain other tap lines, resulted in unlawful prejudice, not sustained, and damages denied. *Davis Bros. Lumber Co. v. C., R. I. & P. Ry. Co.* 501 (505).

In a wide readjustment of rates involving both increases and reductions, reparation in many cases has been denied. Giving due consideration to the relationship between the complainant and the defendant, reparation is denied on anthracite coal from the anthracite region in Pennsylvania to tidewater and other points. *Delaware, Lackawanna & Western Coal Co. v. D., L. & W. R. R. Co.* 506 (508-510).

Shippers frequently demand reparation on past shipments made under rates which were too high, but the law contains no provisions permitting the set-off of charges on shipments moving under rates that may have been too low. *Id.* (508-509).

In the public interest an order requiring a revision of a general rate structure ought not to be embarrassed and complicated by awards of reparation, as a necessary consequence of such a revision, unless from all circumstances as disclosed, essential justice requires such awards. *Id.* (509).

A reduction to meet the rate of a competing line is not ordinarily accepted as being sufficient when standing alone to justify an award of reparation. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515 (516).

Inasmuch as the conclusion reached disturbs a relationship which has existed for many years, reparation is denied. *Brown & Co. v. S. Ry. Co.* 536 (540).

Reparation on account of charges collected for switching interstate carload traffic to and from industries located upon spurs and sidetracks within the switching limits of San Francisco and Los Angeles, Cal., and other points, denied, following *Boardman Co. v. S. P. Co.* 37 I. C. C., 81. *Hulme & Hart v. A., T. & S. F. Ry. Co.* 665.

DEMAND. See MARKETS.**DEMURRAGE.**

Table showing the increase in car efficiency on lake cargo coal since 1907 when demurrage was first assessed. *Lake Cargo Coal Rates*, 159 (167).

Demurrage charges on a carload of lumber at St. Louis, Mo., shipped from N. A. 604 Mile Post, Ga., to St. Louis, resulting from failure of carrier to transmit routing instructions and correct car number, were illegally assessed. Reparation awarded. *Schuh-Mason Lumber Co. v. M. & O. R. R. Co.* 365 (368).

DEMURRAGE—Continued.

Car of naphtha from Bayway, N. J., consigned to Bush Terminal was reconsigned to Erie Basin, but under tariff could not be delivered there, so was delivered to the Atlantic terminal. While awaiting disposition orders, demurrage and track storage charges accrued. *Held*, The detention was not caused by railroad errors which prevented proper tender or delivery; charges found properly assessed, not unreasonable. *Bayway Chemical Co. v. C. R. R. Co. of N. J.* 424 (426).

Drayage and demurrage charges assessed at Florence, S. C., on shipments of salt, due to misrouting, resulting from failure of carrier's agent to show routing in bill of lading. Reparation awarded for drayage charges. *International Salt Co. of New York v. S. A. L. Ry.* 478 (479).

Contention that demurrage rules on cars of coal at Elizabethport, N. J., for transshipment, are unreasonable because they do not provide that where cars are not unloaded in the order of their arrival the unloading of a car received at a later date shall be construed to be the release of a car received at an earlier date, not sustained. Object of the average agreement is to permit the handling of cars without regard to the exact order of arrival. *Meeker v. C. R. R. Co. of N. J.* 657 (658).

Contention that because the tariffs of certain other carriers appear to approximate complainant's desire for the partial or complete extinction of demurrage charges on carloads of coal at Elizabethport, N. J., for transshipment, it therefore follows that defendant's rules and regulations are unreasonable, is not sound. *Id.* (659).

Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., for transshipment, found justified. *Tidewater Demurrage*, 677 (684).

DENSITY OF TRAFFIC.

Rates between two localities are not comparable with rates between two different localities merely because the traffic density of one destination locality is substantially the same as that of the other. The relative traffic density of the two localities of origin and of the intermediate territories must also be considered. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (9).

Table showing traffic density on the different divisions of the Milwaukee's lines across Iowa and Minnesota to South Dakota, including the divisions to or through Sioux City, Sioux Falls, and Mitchell. *Id.* (10).

DEPRESSED RATES.

Water-borne coal upon the Ohio River is said to depress the rates to Cincinnati, and this evidence is corroborated by that in 25 I. C. C., 613, 617. *Bituminous Coal to C. F. A. Territory*, 66 (84).

Rates upon certain l. c. l. commodities to the Pacific coast points are unreasonably low and have been depressed by reason of water competition. Such rates should be realigned to accord with the long-and-short-haul rule. *Transcontinental Rates*, 236 (274).

DESCRIPTION OF TRAFFIC.

Rates, rules, and regulations to be applied to the traffic are not dependent upon the name used to describe it. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (672).

DETENTION.

Average detention of shipments of tidewater coal at the ports of transshipments, shown. *Tidewater Demurrage*, 677 (679).

DETROIT, MICH.

Detroit is the largest coal-consuming center in Michigan, is the main distributing point for Michigan coal, and is the gateway for traffic moving through To edo to Canadian destinations. *Bituminous Coal to C. F. A. Territory*, 66 (105).

DEVICE.

In an attempt to defeat the through rate, shipments of alfalfa meal from Kearney, Nebr., were billed to Omaha, at the intrastate rate, then rebilled to Owensboro, Ky. *Held*, The shipments were through interstate shipments and the through rate was legally applicable. *Woolworth v. U. P. R. R. Co.* 437 (439). Former finding that the device of first billing an interstate shipment to an intermediate intrastate point in order to defeat the interstate rate was unlawful, reaffirmed. *Kanotex Refining Co. v. A., T. & S. F. Ry. Co.* 495 (496).

DIFFERENTIAL.

Table showing proposed rates and differentials from the inner and outer Crescent groups to "affected" territory. Bituminous Coal to C. F. A. Territory, 66 (78). Statements of present and proposed rates on bituminous coal from districts in the inner and outer Crescent groups and from the Connellsville district to Cleveland and Columbus, Ohio, also the differentials over or under the Pittsburgh district, from the several districts under the present and proposed rates. *Id.* (79).

Differential of 25 cents per ton on bituminous coal between rates from the Ohio and inner Crescent districts to "affected" territory found unduly prejudicial to Ohio districts and unduly preferential of the inner Crescent districts to extent said differential is less than 40 cents per ton, and for the future will be unduly prejudicial to the inner Crescent districts and unduly preferential of the Ohio districts to extent that the said differential is more than 40 cents per ton. *Id.* (90, 116, 129, 145).

Wider differential between the rates on bituminous coal from the Ohio group and the Crescent groups to "affected" territory than obtains from the same groups to "nonaffected" territory, is justified by dissimilar circumstances and conditions. *Id.* (144).

Differential of 12 cents in rates on lake cargo coal Connellsville district over the Pittsburgh district found to result in undue prejudice to the Connellsville district and unduly preferential of the Pittsburgh district. *Lake Cargo Coal Rates*, 159 (170, 175).

Relationship of the rates on lake-cargo coal from the Ohio, Connellsville, Altoona, Fairmont, Meyersdale, Cumberland-Piedmont, Kanawha-Thacker, Kentucky, Hocking, New River, and Pocahontas coal districts is unduly preferential and prejudicial to the extent that the difference, differential, or spread in the rates as between the several districts named differs from that provided herein. *Id.* (177, 189).

Rates proposed on flat cotton higher than on compressed cotton are reasonable and proper. *Louisiana Cotton*, 451 (454).

Measure of the differential on cotton under proposed adjustment to St. Louis over the rate to Memphis owing to the differences in distances and carrier competition is approximately correct. *Id.* (458).

Joint rate on Portland cement from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, Pa., for transshipment by water, which exceeds by more than 10 cents per net ton the rate from Martin's Creek, Pa., subjects complainants to undue prejudice. *Vulcanite Portland Cement Co. v. O. R. R. Co. of N. J.* 483 (487).

As the all-rail rate on pig iron from southern furnaces to New England points is the same to all points in the blanket it would be difficult, if not impracticable, to establish a fixed differential in the absence of a blanket rate rail-water-and-rail. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (561, 562).

Rail-and-lake rates to Duluth on commodities from points east of the Indiana-Illinois state line should be less than the rail-lake-and-rail rates to the twin cities by the differential prescribed in the *Duluth Case*, 27 I. O. C., 639, of the

DIFFERENTIAL—Continued.

class to which the commodity belongs, and all commodity rates which fail to maintain such differential are unduly prejudicial to Duluth and unjustly preferential of the twin cities. *Second Duluth Case*, 585 (590).

Rates on lump coal from Glenrock, Wyo., to destinations in South Dakota should be on a basis not less than 50 cents lower than the rates from Hudson to the same destinations and rates from Hanna, Wyo., to South Dakota destinations should be on a basis not less than 50 cents lower than rates from Rock Springs, Wyo., to same destinations. *Coal to South Dakota*, 628 (639, 640).

Through routes and joint rates on egg-case material in shock form from Cairo, Ill. to points in Kentucky and Tennessee, in connection with the various routes ordered maintained with differentials over Memphis ranging from 1 to 3 cents. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (698-702).

Commodity rate differentials in some instances higher than class differentials. *State of Iowa v. Wabash Ry. Co.* 703 (710).

DIRECT LINE. *See* CIRCUTIOUS ROUTES.**DISCRIMINATION.** *See also* PREFERENCES AND PREJUDICES.

Unlawful discrimination can not be predicated upon a mere assumption or assertion of its existence. *Bituminous Coal to C. F. A. Territory*, 66 (99).

DISTANCE. *See also* AVERAGES; SHORT HAUL TRAFFIC.

Short-line and average distances from grouped points in Alabama, Tennessee, Georgia, and Kentucky to Natchez, Miss., and New Orleans, La., given. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (61).

Distance is not the only transportation factor to be considered in fixing the measure of a differential. *Bituminous Coal to C. F. A. Territory*, 66 (129).

Tables showing the average distances from the Connellsville and Pittsburgh districts to the various lake ports by different routes. *Lake Cargo Coal Rates*, 159 (172-175).

Table showing the average short-line distance from coal-producing mines to lake ports via the various routes, for transshipment. *Id.* (178).

Distance is only one of the factors that should be considered in fixing rates. *Id.* (181).

Distance and transportation conditions have had little or no consideration in the fixing of the rate structure on lake cargo coal. *Id.* (188).

Distance has been a comparatively unimportant factor in the determination of rates on cement from the Lehigh cement district. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.*, 483 (485).

Is seldom the sole factor to be considered in fixing reasonable rates. *Chamber of Commerce of Johnson City, Tenn., v. S. Ry. Co.* 527 (531).

Where points are properly grouped with respect to rates to common markets, distances are fairly to be computed on the average distances of the points in the group. *State of Iowa v. Wabash Ry. Co.* 703 (709).

DISTANCE RATES. *See also* MILEAGE RATES.

Defendants' tariffs should be revised so as to provide on traffic from the points in Iowa in question to the destinations in Kansas, moving by way of Kansas City and other lower Missouri River crossings, rates not in excess of those in effect from such crossings to the same destinations on May 31, 1914. *Iowa State Board of R. R. Com'rs v. A. E. R. R. Co.* 488 (491).

DISTURBANCE OF ADJUSTMENT.

Where a group arrangement is of long standing and business has adjusted itself thereto, the Commission is loath, in the absence of a clear discrimination resulting therefrom, to disturb the arrangement. *Bituminous Coal to C. F. A. Territory*, 66 (143).

DISTURBANCE OF ADJUSTMENT—Continued.

If differences growing out of rivalry and internecine competition between shippers from different groups can not be composed among the parties themselves, the Commission will have no alternative but to break up the group arrangement and substitute a rate basis which will give to each of the several districts its just relation to all other districts. *Id.* (143).

The fact that the establishment of certain rates may result in a far-reaching disruption of a complicated rate structure does not justify an approval of rates which contravene the act. *Chamber of Commerce of Huntington, W. Va., v. C. & O. Ry. Co.* 432 (436).

Inasmuch as the conclusion reached disturbs a relationship which has existed many years, reparation is denied. *Brown & Co. v. S. Ry. Co.* 536 (540).

The adjustment of rates on wheat to Minneapolis from points in Minnesota, South Dakota, and Iowa has resulted from various cases decided by the Commission, and the alteration of which would involve fourth section violations, back hauls, and the disruption of rate relationships of long standing and should not be changed upon a collateral attack aimed at transit rules at Minneapolis. *Minneapolis Traffic Asso. v. C., M. & St. P. Ry. Co.* 685 (687).

Contention that the adjustment of rates on lumber to the southeast should not be disturbed until these rates are checked in by the committee now working upon the fourth section situation, can not be permitted to defer a finding upon the present record if it appears that the existing situation is unduly prejudicial to complainant. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (697).

DIVERSION OF TRAFFIC.

Coal to New England moved by vessel from Hampton Roads, Va., prior to the outbreak of the European War has largely been diverted to all-rail routes, increasing the congestion of cars at tidewater points. *Tidewater Demurrage*, 677 (680).

DIVISIONS.

Any division allowed by the defendant trunk lines to the Freeo Valley out of joint through rates on lumber from points on the latter line should conform to the principles announced in the second supplemental report in *The Tap Line Case*. *Morgan v. F. V. R. R. Co.* 327 (328).

The Commission has uniformly held that a disagreement between carriers as to divisions of rates is of itself no justification for an increase in rates. *Coal to Muscatine, Iowa*, 450.

Gauging the reasonableness of a joint through rate, by treating the divisions of that rate as factors, is obviously subject to criticism, but as the parties in this case have used this method in testing the joint rate, evidence will be considered as presented. *Allentown Portland Cement Co. v. M. & M. T. Co.* 492 (493).

DOCK CHARGES.

Respondents required to state in their tariffs the amounts charged against the lake cargo coal traffic for the line-haul service from the mines to the docks at the lake ports and for the service of transferring the coal from the cars to the vessels at the docks. *Lake Cargo Coal Rates*, 159 (194).

DOMESTIC AND EXPORT.

Failure of carriers to maintain ex-rail reshipping rates on grain and products, domestic and export, from Buffalo to the Atlantic seaboard and interior points, while maintaining such rates from Chicago to the same destinations found to be unduly preferential of Chicago to the undue prejudice of Buffalo. *Buffalo Grain Cases*, 570 (582).

Rule that carload freight moved to New York as domestic traffic and subsequently exported can not be accorded the benefit of the more liberal storage charges applicable to export traffic, which rule was designed to prevent the circum-

DOMESTIC AND EXPORT—Continued.

vention of embargoes against the movement of freight to New York before ship space is secured, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (673).

Commission does not agree to contention that a shipment which moves to New York on a straight domestic bill of lading and is later exported becomes an export shipment from the point of origin and is entitled to everything that the tariffs provide for export shipments. *Id.* (672).

DRAYAGE. See also ROAD HAUL.

Carrier's clerk failed to show routing in bill of lading, and shipments of salt were misrouted, resulting in drayage charges at destination. Reparation awarded for drayage. *International Salt Co. of New York v. S. A. L. Ry.* 478 (479).

EARNINGS. See also REVENUE.

Barytes: Car-mile and ton-mile earnings on barytes from Lexington, Ky., to Philadelphia, Pa., shown under the class rate and the subsequently established commodity rate. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515 (516).

Beer containers: Ton-mile and car-mile earnings on empty beer containers in official classification shown. *Official Classification Ratings*, 383 (386).

Canned goods: Ton-mile and car-mile earnings on canned goods from Salt Lake City and other Utah points compared with those from and to other points, *Davidson Grocery Co. v. B. A. & P. Ry. Co.* 447 (448).

Cement: Car-mile and ton-mile earnings on cement from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, shown. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483 (485).

Coal: Comparative analysis of per ton-mile, per car, and per car-mile earnings under present rates on bituminous coal from the inner Crescent to Toledo, Ohio, Detroit, Mich., and interior Michigan points. *Bituminous Coal to C. F. A. Territory*, 66 (101).

Lime: Ton-mile and car-mile earnings on lime to Natchez, Miss., and New Orleans, La., from various points in the south, shown. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (61).

Lumber: Car, car-mile, and ton-mile earnings on lumber and other forest products from Huntingburg, Ind., to points in Illinois, Michigan, and Wisconsin, shown. *Stimson v. S. Ry. Co.* 429 (430).

Stoneware: Ton-mile and car-mile earnings from Monmouth and Macomb, Ill., to Billings and Harlowton, Mont., compared with those from Red Wing, Minn. *Western Stoneware Co. v. C., B. & Q. R. R. Co.* 331 (332).

ECONOMIC CONDITIONS.

Necessities growing out of changed economic conditions are not factors upon which the Commission may predicate an adjustment of rates or change existing rates if the latter are reasonable and nondiscriminatory. *Bituminous Coal to C. F. A. Territory*, 66 (135).

ECONOMIC LOSS.

Gases escaping from beehive coke ovens has resulted in an economic loss to the world of other products now recovered in the by-product oven processes. *Bituminous Coal to C. F. A. Territory*, 66 (182).

EMBARGO.

A shipper who chooses to defeat the spirit of an embargo against the making of export shipments to New York before he has secured his ocean space suffers the penalty represented by the difference between the provisions of the export and the domestic tariff schedules. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (672).

Rule that carload freight moved to New York as domestic traffic and subsequently exported can not be accorded the benefit of the more liberal storage

EMBARGO—Continued.

charges applicable to export traffic, which rule was designed to prevent the circumvention of embargoes against the movement of freight to New York before ship space is secured, found justified. *Id.* (673).

EMERGENCY RATES.

Present rates on lake cargo coal regarded by shippers and carriers as being in nature of emergency rates made necessary by the conditions arising because of the world war. *Lake Cargo Coal Rates*, 159 (192).

EMINENT DOMAIN.

The East & West Louisiana Ry., a common carrier tap line, has never exercised the right of eminent domain. *Davis Bros. Lumber Co. v. C., R. I. & P. Ry. Co.* 501 (503).

EMPTY CONTAINERS.

Upon rehearing previous conclusion adhered to that increased ratings in official classification on old beer cooperage, old beer bottles, and old bottle carriers, returned empty, have been justified. *Official Classification Ratings*, 383 (387).

The policy of granting reduced ratings on returned or used containers is quite prevalent, but much more so in the south and west than in official classification territory. *Id.* (385).

Proposed changes in the rating on drums, returned empty or secondhand, used in the transportation of ammonia, glycerine, and various oils, to fourth class, l. c. l., and Class C, carload, found justified. *Empty Carrier Ratings*, 520 (522).

EQUALIZING CONDITIONS.

The Commission may not lawfully do or attempt to do anything to neutralize the natural disadvantages which one locality, or district, or group of mines may have in its competition with another, but carriers, in fixing rates, may give consideration to competitive conditions so long as no undue prejudice or undue preference results. *Bituminous Coal to C. F. A. Territory*, 66 (119).

It is not the function of the Commission to balance commercial conditions or to equalize advantages out of location, so as to bring manufacturers and markets into competition on equal terms. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (562-563).

When rates are otherwise reasonable, the Commission can not properly require a readjustment merely to influence the movement of a fixed percentage of grain through a particular market. *Buffalo Grain Cases*, 570 (580).

It is not the province of the Commission to equalize commercial or economic conditions, or to make rate adjustments, which will offset the natural advantages or disadvantages of one producing territory as compared with another. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (653).

ERROR. See also CAR NUMBER.

Through error Bay City, Wis., was published as point of origin instead of Bay City, Mich. Reparation awarded on shipments of wooden hoops moving to Blytheville, Ark. *Creamery Package Mfg. Co. v. St. L. & S. F. R. R. Co.* 303 (304).

Through error the same rates did not apply on shipments received south of Cairo, Ill., by the Illinois Central, as to those received at that point. Reparation awarded on crossties moving from points in Mississippi and Alabama via Carbondale, Ill., to Chicago and Indianapolis. *Ayer & Lord Tie Co. v. I. C. R. R. Co.* 305 (306).

Complainant requested the best rate for immediate shipment. Carrier erroneously neglected to quote and provide for application, under 77 of *Tariff Circular 18-A*, of lower rate that was in effect to farther distant point. Rate applied not shown unreasonable. *Price Bros. & Co. v. C. N. Ry. Co.* 397 (398).

EVIDENCE.

Commission sees no impropriety in making use of the information contained in the special reports submitted by the carriers or in other exhibits to which objection was made, and must regard the data contained therein as properly of record and a part of the evidence in the case. Sections 16 and 20 of the Act cited for authority. *Lake Cargo Coal Rates*, 159 (183-184).

EXHIBITS. *See* APPENDIX.**EX-LAKE GRAIN.**

Ex-lake rates on grain and products, domestic and export, from Buffalo to the Atlantic seaboard and interior points, not found unreasonable or unduly preferential to Chicago to the prejudice of Buffalo. *Buffalo Grain Cases*, 570 (580).

EXPORT BILL OF LADING.

Rule that a shipper from an interior point in the United States must, as a condition precedent to the issuance of a through export bill of lading, guarantee the payment of such storage charges as may accrue at New York after the expiration of free time, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (671).

EXPORT RATES.

Proposed increased rates, and changed regulations and practices, on cotton from Louisiana points to Mississippi River crossings, including New Orleans when movement is interstate; to New Orleans and other Gulf ports for export; and to defined territories east of the Mississippi River, found just and reasonable except as indicated. *Louisiana Cotton*, 451 (454, 462, 463).

Export rates on cotton from Montgomery to south Atlantic ports, lower than from intermediate points, found not justified. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (754).

EXPORTS. *See* SHIP SIDE.**EXPRESS RATES.**

Rates for shipments of cream by express to Washington, D. C., from points within 500 miles thereof found to be unreasonable. Reasonable rates prescribed. *Golden & Co. v. Adams Express Co.* 541 (546).

EX-RAIL RESHIPING RATES.

Failure of carriers to maintain ex-rail reshiping rates on grain and products, domestic and export, from Buffalo to the Atlantic seaboard and interior points, while maintaining such rates from Chicago to the same destinations found to be unduly preferential of Chicago to the undue prejudice of Buffalo. *Buffalo Grain Cases*, 570 (582).

FACTOR. *See also* PROPORTIONAL RATES.

By tariff provision, factor of combination rate was not to be used either by itself or in combination, in preference to a specific class or commodity rate; however, the tariffs naming the rates are on file with the Commission, and in the absence of a joint rate the combination would be legally applicable. Joint rate found unreasonable to the extent it exceeded the aggregate of intermediates. *Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co.* 421 (422).

On shipments of alfalfa meal from Kearney, Nebr., to Owensboro, Ky., the factor applying to Omaha, Nebr., was alleged unreasonable as compared with the intrastate rate, but this component may not be considered owing to the absence of an attack upon the through rate from point of origin to final destination. *Woolworth v. U. P. R. R. Co.* 437 (439).

Where a rate adjustment is found to result in undue prejudice by reason of separately established factors, the carriers parties to the components of the through rates which are not attacked, and which do not in any way contribute to the undue prejudice found to exist, are proper but not necessary parties. *Indianapolis Chamber of Commerce v. C., C. & St. L. Ry. Co.* 547 (556).

FACTOR—Continued.

Complainants allege that the proportional rates used as components of the through rates yield ton-mile earnings relatively higher than those based on certain differentials fixed in the *Pottlatch Case*, 14 I. C. C., 41, but it is the reasonableness and lawfulness of the through rates that must be considered. *Western Pine Mfrs.' Assn. v. C., I. & W. R. R. Co.* 650 (654).

FEEDING AND WATERING.

It is not within the Commission's province to determine the lawfulness or reasonableness of charges in connection with the feeding, watering, and resting of hogs in transit. *Pacific Coast Beef & Provision Co. v. O. S. L. R. R. Co.* 401 (402).

FINANCIAL CONDITIONS.

Financial conditions of navigation company operating between Houston and Galveston, Tex., shown for the years 1906 to 1915. *Direct Navigation Co.* 378 (381).

FINDING OF COMMISSION.

Fourth section order entered in *Des Moines Commodity Rates*, 34 I. C. C. 281, complied with, but the finding that the maintenance of higher rates between Peoria or Springfield and the designated interior Iowa cities than between Peoria or Springfield and St. Paul is unduly prejudicial, and that rates in other respects are not found unreasonable, was not followed. Fourth section relief in this case denied. *State of Iowa v. Wabash Ry. Co.* 703 (707-708).

FLOOD.

Each year at high water in the Ohio River a great fleet of barges is sent down the river from the vicinity of Pittsburgh to New Orleans loaded with coal, iron articles, etc., which are warehoused in cities along the river and distributed as demand arises. *Transcontinental Rates*, 236 (266).

FOLLOW LOT.

Fifty-foot flat car ordered, two smaller flat cars furnished. Two for one rule applied only when excess was placed in box car. Charges collected on second car on basis of 1 c. l. rate found legally applicable. *Dietly v. N. Y. C. R. R. Co.* 317 (319).

FOREIGN COUNTRIES. See ADJACENT FOREIGN COUNTRIES.**FREE TIME.**

Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., for transshipment, found justified. *Tidewater Demurrage*, 677 (684).

FULL-CREW LAW.

Additional expense incurred by employment of an additional brakeman on certain trains in compliance with the so-called full-crew law of Pennsylvania. *Lake Cargo Coal Rates*, 159 (168).

GRADING RATES.

In instances where the rates to the Pacific coast points are of sufficient volume to admit of their grading to intermediate points the commodity rates to intermediate points should be graded or grouped in such manner as the varying conditions warrant. *Transcontinental Rates*, 236 (273).

GROUP RATES.

Rates on lime to Natchez, Miss., from grouped points in Alabama, Tennessee, Georgia, and Kentucky, not shown unreasonable or unduly prejudicial as compared with the rates to New Orleans, La. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (62).

Circuitous lines will be authorized to continue rates from or to lower rated groups on traffic routed through higher rated groups, except that the rates from or to the higher rated groups shall not exceed those authorized in original reports. *C. F. A. Class Scale Case*, 475 (477).

GROUP RATES—Continued.

Cement producing points in the Lehigh district in Pennsylvania and New Jersey have been embraced in a rate blanket, and the rates from all points therein to any destination are generally the same. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483.

Where points are properly grouped with respect to rates to common markets, distances are fairly to be computed on the average distances of the points in the group. *State of Iowa v. Wabash Ry. Co.* 703 (709).

GROUPING.

Proposal to combine the Connellsville district and the Pittsburgh district under the same rates on lake cargo coal not found to be justified. *Lake Cargo Coal Rates*, 159 (172, 175).

Grouping the Meyersdale district with the New River and Pocahontas districts on lake cargo coal, found justified, but the grouping of the Meyersdale district with the Fairmont and the Connellsville district has not been justified. *Id.* (177).

HANDLING CHARGES.

Tariff did not provide for the handling of salt from warehouses to cars at Wilmington, N. C., but the record affords no basis for determining what would have been a reasonable charge for the services. *International Salt Co. of New York v. S. A. L. Ry.* 478.

HIGH WATER. See FLOODS.**"HUMP."**

Map illustrating the rate "hump" at the Mississippi River crossings. *Interior Iowa Cases*, 39 (49).

ICING.

Charges on fish, packed in ice, in barrels, from Pensacola, Fla., to various destinations, based on total estimated weight of shipments, including weight of ice, found unreasonable to extent they exceeded charges on the basis of the weight of the shipments, exclusive of the weight of the ice. Reparation awarded. *Warren Fish Co. v. L. & N. R. R. Co.* 375 (377).

IMPORT RATES.

Charges on dried egg yolk and dried egg albumen from Vancouver, Canada, to New York, N. Y., originating in China, at second-class import rate, not shown unreasonable or otherwise in violation of the act for that portion of the transportation within the United States. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (292).

IMPORTS.

Rates on fresh meat, imported from South America, and on shipments for export, transported between ship side and stations in New York, N. Y., found unreasonable to the extent they exceeded rates subsequently established. Reparation awarded. *Swift & Co. v. N. Y. C. R. R. Co.* 356 (358).

Proposed rule requiring shipments of imported China wood oil and soya bean oil, in barrels, to be in iced refrigerator cars during the summer months; and requiring to be delivered with each shipment a sworn weigher's certificate found not justified. *Vegetable Oils Transportation*, 674 (675).

INJUNCTION.

Order entered in *Reopening Fourth Session Applications*, 40 I. C. O., 35, required carriers to revise rates to the Pacific coast and intermediate points in such manner as to cure the existing discrimination. Injunction proceedings instituted in U. S. district court of Oregon. By decree the court denied the applications, and held the Commission's order to be valid and rates established thereunder to be lawful. *Transcontinental Rates*, 236 (253-254).

INSURANCE.

Insurance cost for cotton exceeds cost for commodities generally. *Louisiana Cotton*, 451 (462).

INTERCORPORATE RELATIONSHIP.

Traffic between the east and the interior Iowa cities involves at least a two-line haul east of the river, either over what are generally known as the intercorporate related eastern system lines or over lines that are absolutely independent of each other. *Interior Iowa Cases*, 39 (43).

The payment of freight charges by complainant, which is a subsidiary of the defendant, seems to have been largely the transfer of money from one pocket to another. That fact, however, does not simplify or aid the complainant's demand for reparation. *Delaware, Lackawanna & Western Coal Co. v. D., L. & W. R. R. Co.* 506 (509).

INTERMEDIATE POINTS. *See also LONG AND SHORT HAUL.*

Conforming to rule 77 of Tariff Circular 18-A, defendant provided for publication of rates to any intermediate point not in excess of those to more distant points, but the establishment in August of rate requested in June can not be considered as properly prompt action. *Price Bros. & Co. v. C. N. Ry. Co.* 397 (398).

The revision of rates on lumber from Bolton, Whiteville, and Boardman, N. C., to Virginia gateways should be accompanied by a corresponding realignment of the rates from intermediate points. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (625).

INVESTIGATION.

Cream to Washington, D. C. *Golden & Co. v. Adams Express Co.* 541.

C. F. A. Territory Milk and Cream Rates, 601.

Coal to South Dakota, 628.

INVESTMENT.

Table showing rate of return on investment, 16 railways, fiscal years 1905 to 1916. *Bituminous Coal to C. F. A. Territory*, 86 (115).

Exhibit showing investment in and the results of the operation of the coal docks at Lake Erie ports over which docks the lake cargo coal is handled in transferring from the cars to the vessels; included in the costs the items of operating expenses, depreciation, taxes, insurance, other expenses, and 6 per cent interest on the investment of the dock properties. *Lake Cargo Coal Rates*, 159 (193).

Transcontinental railroads can fairly expect such consideration as will permit them to continue to earn a reasonable return upon their property devoted to public use. *Transcontinental Rates*, 236 (269).

An investigation of the lumber industry in the inland empire during the period from 1909 to 1915, showed the average earnings to be 1.06 per cent on the capital invested. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (652).

JOINT RATES.

The Commission can not prescribe joint through rates from points in an adjacent or nonadjacent foreign country to points in the United States, but can control the charges for that portion of the service rendered by carriers in the United States. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (292).

Combination rates from Princeton, Ark., to certain specified destinations alleged unreasonable as compared with joint rates from other points. Joint rates in effect prior to *The Tap Line Case*, were canceled following that decision. Joint rates established subsequent to hearing are satisfactory to complainants. *Morgan v. F. V. R. R. Co.* 327 (328).

Proposed cancellation of joint rates on coal from mines in Illinois to Muscatine, Iowa, on account of disagreement of carriers as to divisions, found not justified, and suspended schedules required to be canceled. *Coal to Muscatine, Iowa*, 450.

JOINT RATES—Continued.

Gauging the reasonableness of a joint through rate by treating the divisions of that rate as factors, is obviously subject to criticism, but as the parties in this case have used this method in testing the joint rate, evidence will be considered as presented. *Allentown Portland Cement Co. v. M. & M. T. Co.* 492 (493).

JUNCTION POINTS.

Principal junctions between the eastern and western lines are Chicago, Peoria, and East St. Louis. *Interior Iowa Cases* 39 (43).

JURISDICTION. See also ADJACENT FOREIGN COUNTRY.

The Commission has never exercised jurisdiction over the individuals or companies performing the intermediate services on lake cargo coal between the lower and upper lake ports, for interior points. *Lake Cargo Coal Rates*, 159 (185).

The act to regulate commerce specifically confers jurisdiction upon the Commission over traffic shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or in an adjacent foreign country. *Carlowitz & Co. v. C. P. Ry. Co.* 290 (291).

The act does not give to the Commission any extraterritorial authority, but merely defines the nature of the traffic to which its jurisdiction extends. *Id.* (291).

The lawfulness and reasonableness of charges for feeding, watering, and resting of hogs in transit, is not within the Commission's province. *Pacific Coast Beef & Provision Co. v. O. S. L. R. R. Co.* 401 (402).

Commission's jurisdiction over the intrastate rates to Waco, Tex., arises only by reason of the undue prejudice against Shreveport found to exist in the *Shreveport Case*, 41 I. C. C., 83, due to the relationship between interstate rates and the intrastate rates in Texas. *Waco, Tex., Switching*, 647 (649).

JUSTICE.

A full measure of justice is unattainable where a rate adjustment between divergent and conflicting interests depends upon a group system, unless all considerations other than those of a purely transportation character are eliminated. *Bituminous Coal to C. F. A. Territory*, 66 (143).

LAKE CARGO COAL.

Proceeding involving the reasonableness and propriety of rates, rules, regulations, and practices applicable to shipments of bituminous coal in carloads from mines in Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Ohio, to Lake Erie ports for transshipment by vessel. *Lake Cargo Coal Rates*, 159.

LEAKAGE.

It is not established that China wood oil or soya bean oil, at summer heat, will, through expansion and thinning, force their way from well-conditioned barrels. *Vegetable Oils Transportation*, 674 (675).

LEGAL RATES.

Rates on earthenware from Sebring, Niles, and East Liverpool, Ohio, to San Francisco and Los Angeles, Cal., found legally applicable. Failure to reissue in tariff supplement, notation cancelling certain lower rate, did not have the effect of automatically establishing such rate. *Jewel Tea Co. v. P. Co.* 314 (316).

Combination rate on cattle from Dryden, Tex., to Middlewater, Tex., stopped in transit at El Paso, Tex., for feeding and resting, found illegal to extent it exceeded joint rate. *Reparation awarded. Madere v. E. P. & S. W. R. R. Co.* 322 (324).

LEGAL RATES—Continued.

Junk moved to Fargo, N. Dak., under transit service of unlimited time period. Before reshipment the transit period was limited to one year and local rates were assessed on movement from Fargo. *Held*, The rate legally applicable was the rate in effect at the time of movement to Fargo, and charges and transit balance should be adjusted accordingly. *Fargo Iron & Metal Co. v. G. N. Ry. Co.* 399 (400).

Wheat from points in Idaho and Utah to Los Angeles, Cal., was competitive traffic within the meaning of defendant's absorption rule. Switching charge of \$2.50 per car at Los Angeles found to have been collected without tariff authority. Reparation awarded. *Globe Grain & Milling Co. v. L. A. & S. L. R. R. Co.* 645 (646).

LEHIGH CEMENT DISTRICT.

What is known as the Lehigh cement district embraces parts of the counties of Berks, Lehigh, and Northampton, in the eastern part of the state of Pennsylvania, and a few points in northwestern New Jersey. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483.

LIMITATION OF ACTION.

After claims were presented informally, Commission was informed that they would be withdrawn. Three years later complainant attempted to revive action by filing a formal complaint. *Held*, Claim must be viewed as abandoned. *Florence Wagon Works v. L. & N. R. R. Co.* 373 (374).

Shipment delivered February 6, 1914, and notice of arrival given on that date. Although shipment was not unloaded until February 9, 1914, complaint filed February 9, 1916, is barred by the statute of limitation. *Beaumont Timber Co. v. I. & G. N. Ry. Co.* 410.

LINE HAUL. See also SECTION 3.

Traffic between the east and the interior Iowa cities involves at least a two-line haul east of the river, either over what are generally known as the intercorporate related eastern system lines or over lines that are absolutely independent of each other. *Interior Iowa Cases*, 39 (43).

LINOMEAL.

Linomeal is made out of the screenings of wheat, oats, and barley and is entitled to the rate applicable to grain screenings. *Tarkio Molasses Feed Co. v. C., B. & Q. R. R. Co.* 17 (19).

LOADING.

In general:

Table showing the percentage of increase or decrease in train and car loading of all freight in 1916 compared with 1911 for the five roads defendant. *Lake Cargo Coal Rates*, 159 (166).

Exhibits filed showing the average loading of coal per car was 42.95 tons in 1911 and 47.71 tons in 1916, an increase of 4.76 tons, or 11 per cent. *Id.* (166).

Cement: The average loading of cement in the Lehigh district is approximately 68,000 pounds. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483 (485).

Cotton: Flat cotton takes twice the car space necessary for compressed cotton. *Louisiana Cotton*, 451 (453).

Lumber: Cedar lumber averages 3½ pounds per foot in weight, loads in excess of 13,000 feet per car, and an average weight of 47,415 pounds per car is shown. *Brown & Co. v. S. Ry. Co.* 536 (537).

Sand: The average loading of sand from Allison Branch, Ill., and Emison, Ind., to Indiana destinations is 100,000 pounds. *Anderson-Theobald Co. v. Vandalia R. R. Co.* 412 (413).

LOADING AND UNLOADING.

Contention that demurrage rules on cars of coal at Elizabethport, N. J., for transshipment, are unreasonable because they do not provide that where cars are not unloaded in the order of their arrival the unloading of a car received at a later date shall be construed to be the release of a car received at an earlier date, not sustained. Object of the average agreement is to permit the handling of cars without regard to the exact order of arrival. *Meeker v. C. R. R. Co.* of N. J. 657 (658).

LOCATION.

Recognition of the benefits of location is in accord with the principles of the act. *Minneapolis Traffic Asso. v. C., M. & St. P. Ry. Co.* 685 (691).

LOCOMOTIVE TRACTIVE POWER.

Locomotive tractive power miles per ton-mile from several general producing districts shown. *Lake Cargo Coal Rates*, 159 (182-183).

LONG AND SHORT HAUL.

In general:

No order entered for fourth section departures, but in lining up rates in accordance with requirements herein made, respondents will not increase any existing discriminations resulting from departures from the long-and-short-haul clause. *Bituminous Coal to C. F. A. Territory*, 66 (107).

The essential justification for lower rates to a more distant point than to an intermediate point is the existence at the more distant point of depressed rates, which the carrier is powerless to affect, and failure to meet which would prevent the carrier from participating in the traffic to the more distant point. *Transcontinental Rates*, 236 (270).

Rates on certain commodities from Pacific coast ports via rail-and-water routes through Galveston to the Atlantic seaboard should be revised to accord with the long-and-short-haul rule. *Id.* (275, 276).

The fourth section was intended to restrain carriers from continuing lower rates to more distant points except in special cases where relief from the long-and-short-haul requirements is afforded by the Commission. Such relief has been granted in cases where competition of water lines is strong, and where carriers operate circuitous routes in competition with direct lines. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.* 388 (395).

Authority to continue rates on turpentine and rosin from points on the Kentwood & Eastern to St. Paul and Minneapolis, Minn., and other points of destination in Minnesota, North and South Dakota, Nebraska, Iowa, and Canada, denied. *Barber Agency Co. v. K. & E. Ry. Co.* 523 (526).

A carrier may not cite its literal observance of the long-and-short haul clause of the fourth section of the act as excusing it from its legal obligation to maintain from points on connecting lines to destinations on its own lines rates which in the light of all relevant considerations are nonprejudicial to the traffic so originating on its connections. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (696).

Relief from the fourth section as to rates on cotton from points on the Mississippi River and its tributaries and Mobile, Ala., to Ohio River crossings, south Atlantic ports, Gulf ports, and eastern cities, afforded. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (738).

Rates on cotton between Gulf ports and south Atlantic ports and from south Atlantic ports to eastern and Virginia cities, afforded relief from the fourth section. *Id.* (744).

Rates on cotton from interior junction points to Ohio and Mississippi river crossings, Gulf ports, south Atlantic ports, eastern and Virginia cities, via all routes that do not exceed the direct lines from and to the same points by more than 15 per cent except in certain instances, denied fourth section relief. *Id.* (746).

LONG AND SHORT HAUL—Continued.

In general—Continued.

Rates on cotton from interior junction points to Gulf ports, Ohio and Mississippi river crossings, south Atlantic ports, and eastern cities via routes which are circuitous to the extent of 15 per cent or more, afforded relief from the fourth section. *Id.* (746).

O. F. A. territory:

Application of direct line rates via circuitous routes through points taking higher rates in C. F. A. territory, authorized except when the distance via the circuitous route is unduly great. The rates to the intermediate points are to be made in accordance with the C. F. A. scale approved in the original reports. *C. F. A. Class Scale Case*, 475.

Distance via the circuitous route from Fort Wayne, Ind., to Lima, Ohio, is 150 per cent greater than the direct line. Relief will be denied, as departures can not be countenanced where carriers via excessively circuitous routes undertake to meet rates of the short routes. *Id.* (476).

Circuitous lines are authorized to continue rates from or to lower rated groups, on traffic routed through higher rated groups, except that the rates from or to the higher rated groups shall not exceed those authorized in the original reports. *Id.* (477).

Rates from Buffalo and Pittsburgh to west-bank Lake Michigan ports lower than to intermediate points in Zone C, east-bank ports, will be authorized upon condition that rates to said intermediate points shall not exceed those authorized in the original reports. *Id.* (477).

Duluth, Minn.: Application for authority to continue class and commodity rates on all freight from points in official classification territory to Minneapolis and St. Paul, etc., over rail-and-lake, lake-rail-and-lake, and lake-and-rail routes through Lake Superior or Lake Michigan ports, lower than rates maintained to intermediate points over the same routes and through the same ports, granted in part, denied in part, and part reserved for further consideration. *Second Duluth Case*, 585 (590-594).

Evansville, Ind.: Authority to continue rates on lumber and other forest products from Evansville to points in Illinois, Michigan, and Wisconsin lower than from Huntingburg, Ind., and other intermediate points, authorized in those instances where the distance from Evansville to the points of destination by way of the Southern Ry. exceed the short-line distance between the same points by 15 per cent or more. *Stimson v. S. Ry. Co.* 429 (431).

Florence, Ala.: Authority to continue rates on iron castings, forgings, bolts, and rivets from Cleveland, Ohio, to Florence, Sheffield, and Tusculum, Ala., lower than those maintained from or to intermediate points, denied to the extent they are here involved. *Florence Wagon Works v. L. & N. R. R. Co.* 373 (374).

Intermountain territory:

Rates on commodities from eastern defined territories to Pacific coast terminals lower than the rates on like traffic to intermediate points found not justified under existing conditions. *Transcontinental Rates*, 236 (243, 246, 276).

Proposed rule of carriers that rates between Atlantic and Gulf ports and to Pacific ports be made with respect to rates by sea approved, with the exception that the rates to the intermediate territory shall not be considered separately from the transcontinental rates to such Pacific ports. *Id.* (245, 246).

LONG AND SHORT HAUL—Continued.

Iowa points: No justification offered for the maintenance of commodity rates from Des Moines, Iowa, and other points in eastern Iowa, to St. Louis, Mo., and points taking same rates lower than maintained on like traffic from said points of origin to Peoria, Ill. *State of Iowa v. Wabash Ry. Co.* 703 (707).

Lexington, Ky.: Authority to continue rates on crude barytes from Lexington to Philadelphia, Pa., lower than from intermediate points, denied to the extent here involved. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515 (518).

New Orleans: Proposed rates on cotton from Shreveport to New Orleans for export would in some instances exceed the export rates applicable through Shreveport from a few points in Arkansas, which the carriers will be expected to adjust. *Louisiana Cotton*, 451 (461).

Norfolk & Western Ry. points: Maintenance of class and commodity rates from O. F. A. territory to Salem, Va., and points east thereof on the Norfolk & Western Ry. lower than to intermediate points found not justified. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.* 388 (395).

North Baton Rouge, La.: Authority to continue to charge on petroleum refined oil, in tank cars, from North Baton Rouge to Tylertown, Miss., rates lower than those from or to intermediate points, denied to the extent they are involved. *Standard Oil Co. (Kentucky) v. Y. & M. V. R. R. Co.* 418 (420).

Wilkes-Barre, Pa.: Combination rate on news print paper from Jonquiere, Quebec, to Wilkes-Barre, Pa., not shown unreasonable because of carrier's failure to promptly provide for application of lower joint rate in effect to farther distant point. *Price Bros. & Co. v. C. N. Ry. Co.* 397 (398).

LOSS AND DAMAGE.

Loss and damage claims on China wood oil and soya-bean oil are not infrequent but they result partly, if not wholly, from defective cooerage, rough handling, and improper loading. *Vegetable Oils Transportation*, 674 (675).

LOUISIANA.

History of rate making and its numerous waterways pointed out. *Louisiana Cotton*, 451 (454).

LOW-GRADE COMMODITIES.

Common brick, sand, and gravel, by reason of their low value and the general distribution of supply, can not be transported long distances at rates remunerative to the carriers. *Bituminous Coal to C. F. A. Territory*, 66 (60).

LOW RATES.

Rates on bituminous coal from the Crescent groups to "affected" territory are below the level at which maximum reasonable rates might be maintained from the Crescent groups to "affected" territory. *Bituminous Coal to C. F. A. Territory*, 66 (145).

McGRAHAM SCALE.

Prior to April 1, 1914, the rates to all the Mississippi River crossings, both upper and lower, from trunk line territory, were controlled by the rates from New York City to Chicago, which are the key rates or the 100 per cent standard of the well-known McGraham scale. *Interior Iowa Cases*, 39 (43).

MAP.

Map showing Mississippi River crossings and interior Iowa cities and distances to the river crossings from New York. *Interior Iowa Cases*, 39 (49).

Showing coal-producing regions and differentials in rates to destinations in "affected" territory. *Bituminous Coal to C. F. A. Territory*, 66 (Following page 158).

Showing the various coal districts and roads over which coal is transported to the Lake ports for transshipment. *Lake Cargo Coal Rates*, 159 (Facing page 160).

MAP—Continued.

Maps showing eastern defined territories on traffic to California and north coast terminals. *Transcontinental Rates*, 236 (282).

Showing industries served by the Birmingham Belt R. R. Co. *Alabama Packing Co. v. A. G. S. R. R. Co.* 335 (337).

MARKET COMPETITION. See COMPETITION (MARKET).**MARKETS.**

It is not the duty of a carrier to place all of its shippers in a position to meet the markets which they may desire to supply. *Lake Cargo Coal Rates*, 159 (165).

Commission has not the power to require the railroads, in the face of varying trade conditions, to adjust their rate schedules in such manner as to insure to a market the continuance of a trade it has once enjoyed. *Id.* (165).

There is a strong demand in the north for southern iron, but this fact can not control the Commission in determining whether rates under review are in themselves reasonable. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (563).

Supply and demand in New York City practically fixes the price of flour for the entire country, and the western and eastern millers must gauge their price to some extent by the price prevailing at that market. *Buffalo Grain Cases*, 570 (573).

Memphis, Tenn., said to be largest interior cotton market in the world. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (736).

MATERIALS AND SUPPLIES.

Evidence indicates a steadily rising level of cost of materials and supplies.

Bituminous Coal to C. F. A. Territory, 66 (111).

MEETING COMPETITION.

In order that coal from the Lake Michigan docks and from northern Illinois may compete with coal from the head of the lakes, the lines serving the docks at Green Bay, Milwaukee, Chicago, and the northern Illinois mines, although having longer hauls than the lines from the head of the lakes, have met the rates from Duluth and Superior. *Coal to South Dakota*, 628 (633).

MILEAGE RATES.

Rates on cream by express to Washington, D. C., from points within 500 miles thereof found unreasonable. Rates on mileage basis prescribed. *Golden & Co. v. Adams Express Co.* 541 (546).

Rates for the interstate transportation of milk and cream, etc., on mileage basis, prescribed on shipments moving between points in C. F. A. territory and from certain points south of the Ohio River to Cincinnati, Ohio. *C. F. A. Territory Milk and Cream Rates*, 601 (618).

MILEAGE SCALE.

Only a uniform mileage scale would preclude claims of relative maladjustment between the rival markets of Minneapolis, Milwaukee, and Chicago, and while no market desires this system to be here applied or applied generally, eventual resort to this basis may possibly be the only outcome of reiterated complaint over a complex situation which the Commission has repeatedly tried to adjust. *Minneapolis Traffic Asso. v. C., M. & St. P. Ry. Co.* 685 (692).

MINIMUM WEIGHT.

Beer containers: Protestants are willing that the minimum weight on beer containers should be increased from 16,000 pounds to 18,000 pounds for refrigerator cars and 20,000 pounds for box cars. Such increase would stimulate heavier loading and is desirable. *Official Classification Ratings*, 383 (387).

Lumber: Minimum weights on lumber and lumber products from the inland empire to c. f. a. territory on basis of 20 pounds per cubic foot, with provision that actual weight shall govern when a car is loaded to full visible capacity, not shown unreasonable. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (656).

MINIMUM WEIGHT—Continued.

Mixed carloads: Two mixed carloads of portland cement and lime moved under class rate that provided no minimum but it was provided that on such shipments moving under commodity rates, the minimum on the articles taking the highest minimum would apply. *Held*, Charges on basis of 40,000 pounds legally applicable. *Fischer Lime & Cement Co. v. S. Ry. Co.* 473 (474).

MINING COSTS.

It is not within the province of the Commission to probe into mining costs as a factor affecting the ability of rival operators to compete with each other. *Bituminous Coal to C. F. A. Territory*, 66 (142).

MISQUOTATION.

Shipper was advised two smaller flat cars would be furnished at the rate and minimum of the larger car ordered but tariff provided for the application of the two for one rule only on box cars. The misquotation of a rate by a carrier's agent affords no ground for a departure from the legally established rate. *Dietly v. N. Y. C. R. R. Co.* 317 (319).

MISROUTING.

Initial carrier misrouted shipment on which there is an outstanding undercharge. As the charges collected equal those applicable over route specified by shipper, undercharge may be waived, but should be borne solely by such initial carrier. *Standard Oil Co. (Kentucky) v. Y. & M. V. R. R. Co.* 418 (419). Carrier's clerk failed to show routing in bill of lading, and shipments of salt were misrouted, resulting in drayage and demurrage charges at destination. Reparation awarded for drayage charges. *International Salt Co. of New York v. S. A. L. Ry.* 478 (479).

MIXED CARLOAD.

Charges on mixed carloads of portland cement and lime from Memphis, Tenn., to Ripley and Pontotoc, Miss., on basis of 40,000 pounds the minimum on the article taking the highest minimum, found legally applicable. *Fischer Lime & Cement Co. v. S. Ry. Co.* 473 (474).

MIXTURES.

Mixtures applicable on shipments of paint from Peoria, Ill., to Des Moines, Iowa, is the same as applies from Peoria to other interior Iowa cities, and are not found to be unduly restricted with respect to shipments to Des Moines. *State of Iowa v. Wabash Ry. Co.* 703 (710-711).

NAME.

Through error Bay City, Wis., was published as point of origin instead of Bay City, Mich. Reparation awarded on shipments of wooden hoops moving to Blytheville, Ark. *Creamery Package Mfg. Co. v. St. L. & S. F. R. R. Co.* 303 (304).

NAPHTHA.

Naphtha is a generic term referring to petroleum distillates that are heavier than gasoline and lighter than kerosene and includes refined, crude, and heavy naphtha. *Bayway Chemical Co. v. C. R. R. Co. of N. J.* 424 (425).

NATIONAL EMERGENCY.

Protestants against the increase in rates on coal from the Pittsburgh district announced that they would not press their protests during the pendency of the present national emergency. *Bituminous Coal to C. F. A. Territory*, 66 (113).

NEW ORLEANS.

Chief cotton market of Louisiana and main point from which the cotton production and distribution of the state is financed, is a Gulf port and from many points in Louisiana and Texas has rates for export substantially the same as those to Galveston and Port Arthur. *Louisiana Cotton*, 451 (452).

NOTICE OF ARRIVAL.

On shipments of coal at Elizabethport, N. J., held for transshipment, complainant receives notice of arrival by messenger, twice daily, and no justification appears for mailed notice. *Meeker v. C. R. R. Co. of N. J.* 657, 658.

OCEAN AND RAIL RATES.

Ocean-and-rail and rail-lake-and-rail class rates from upper Mississippi River cities, to points in trunk line territory, found unduly prejudicial as compared with rates from lower Mississippi River cities. Reparation denied. *R. R. Com'rs of Iowa v. A., T. & S. F. Ry. Co.* 63 (65).

OCEAN-GOING VESSELS. *See WAR.*

OCEAN-RAIL-AND-LAKE RATES.

Evidence insufficient to prescribe ocean-rail-and-lake class and commodity rates from the Maine coast to Duluth, Minn. *Second Duluth Case*, 585 (589, 590).

"OFF-TRACK" STATIONS.

Failure to designate in tariff one of complainant's "off-track" freight stations in St. Louis, Mo., and refusal to compensate complainant for freight transferred from such station, found not to have been in violation of any provision of the act. *Columbia Transfer Co. v. C., B. & Q. R. R. Co.* 371 (372).

OPERATING CONDITIONS.

Operating conditions do not justify higher rates from certain points in O. F. A. territory to St. Louis than to upper Mississippi River cities. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (38).

The increase in general operating costs and the diminished volume of lumber traffic from Morehouse, Mo., to Thebes, Ill., do not establish the inadequacy of the present proportional rate. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (482).

OPERATING EXPENSES.

Defendants allege that operating expenses on lumber from the inland empire to c. f. a. territory have materially increased, but statements as to increases in operating expenses are inconclusive without a showing as to their bearing on the net revenues. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (654).

ORDER OF COMMISSION.

Upon failure of carriers to revise rates by May 1, 1914, as suggested, order entered requiring establishment of reasonable rates by Oct. 1, 1914. Claim for reparation on shipments moving during above period, denied. The compulsory reduction of rates does not necessarily entitle shippers under the preexisting rates to reparation. *Southwestern Millers League v. A. T. & S. F. Ry. Co.* 299 (300).

Parties seeking to have original order set aside should assume the burden of sustaining the attack. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (561).

OUT-OF-POCKET COSTS.

Transcontinental rates must not be lower than the competition of the boats makes necessary, and must be high enough to cover actual out-of-pocket costs of securing and handling the traffic. *Transcontinental Rates*, 236 (268).

Carriers have a right to meet a competitive rate, providing rates so made are sufficient to safely cover the out-of-pocket costs and meet the competition consistently at intermediate points. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (741).

OVERCHARGES.

Charges on linseed from Minneapolis, Minn., to Tarkio, Mo., were assessed at rates applicable on flaxseed screenings. Overcharges found to exist to extent such charges exceeded those at rates applicable on grain screenings, should be refunded. *Tarkio Molasses Feed Co. v. O., B. & Q. R. R. Co.* 17 (19).

OVERCHARGES—Continued.

Statement for reparation may include any outstanding overcharges. Creamery Package Mfg. Co. v. St. L. & S. F. R. R. Co. 303 (304).

Overcharge should be refunded to the consignee properly entitled thereto. Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co. 421 (422).

Overcharges collected should be included in award of reparation. Hopkins, Hough & Merrill Co. v. D., L. & W. R. R. Co. 427 (429).

PACKING.

No opinion expressed as to the difference in rates on dried fruit in bags and in boxes. Transcontinental Rates, 236 (275, 276).

Making charge for weight of ice used in connection with fish, packed in barrels, while making no similar charge for weight of ice when fish are packed in bulk, found unreasonable. Tariff subsequently modified. Warren Fish Co. v. L. & N. R. R. Co. 375 (377).

First-class rate on refrigerators, wrapped, found justified as compared with second-class rates on shipments boxed or crated. Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co. 421 (423).

PANAMA CANAL.

Primary purpose of building the Panama Canal was to assist in the development and maintenance of an active, efficient, and profitable water service between the two coasts. Transcontinental Rates, 236 (277).

PANAMA CANAL ACT. See BOAT LINES.

PARTIES.

The Commission could not on the pleadings establish through routes and joint rates that would involve carriers not made parties to the case. Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co. 309 (313).

Carriers not named as defendants in this proceeding participated in the movement under the joint rate and may join in the reparation herein awarded. Beaumont Timber Co. v. I. & G. N. Ry. Co. 410 (411).

As the freight charges were borne by the consignees, not by the complainant consignor, overcharge should be refunded to the consignee properly entitled thereto. Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co. 421 (422).

Complainant and intervener found to be proper parties entitled to reparation on shipments of refined petroleum from Caney and Coffeyville, Kans., which were sold f. o. b. point of origin and consigned to themselves at Woodward, Okla. Kanotex Refining Co. v. A. T. & S. F. Ry. Co. 495 (500).

Carriers participating in joint rate were not joined as parties to case, but as the joint rate was, under the terms of the act, unlawfully established, each and every participating carrier was jointly and severally liable for any damage resulting from its application. Heckle v. C., B. & Q. R. R. Co. 513 (514).

Complainant bore part of freight charges and intervener consignee bore part and are entitled to reparation in proportion as set out. *Id.* (514).

Where a rate adjustment is found to result in undue prejudice by reason of separately established factors, the carriers parties to the components of the through rates which are not attacked, and which do not in any way contribute to the undue prejudice found to exist, are proper but not necessary parties. Indianapolis Chamber of Commerce v. C., O., C. & St. L. Ry. Co. 547 (556).

PARTS.

Tariff provided that when car contained not less than 25 per cent of vehicles, class A rate would apply. Contention that as more than 25 per cent of shipment consisted of parts of vehicles, class A rate should apply, not sustained. Portland Traffic & Transportation Assn. v. C., R. I. & P. Ry. Co. 333 (334).

PAYMENT.

Rule that a shipper from an interior point in the United States must, as a condition precedent to the issuance of a through export bill of lading, guarantee the payment of such storage charges as may accrue at New York after the expiration of free time, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (671).

PERCENTAGE RATES.

From Pittsburgh, Buffalo, and points taking the same rates to cities on the west bank of the Mississippi River from and including Dubuque on the north and including St. Louis on the south, the class rates shall not exceed 64½ per cent of the rates maintained between New York City and St. Louis. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (38).

Table showing the percentages that the rates from the West Virginia and Kentucky districts are of the rate from the Pittsburgh district. *Lake Cargo Coal Rates*, 159 (180).

Commission not prepared to fix the rates on grain from Buffalo at a fixed percentage of the rates from Chicago. *Buffalo Grain Cases*, 570 (580).

PLEADING AND PRACTICE.

In a proceeding of investigation and suspension, the general public has an interest; and the fact that the respondents during such a proceeding shift their original ground of justification is not material, as the Commission must give consideration to all material facts of record. *Bituminous Coal to C. F. A. Territory*, 66 (109).

It is not shown that the defendant was prejudiced by reason of the variance between the complaint and the proof submitted. *Heckle v. C., B. & Q. R. R. Co.* 513 (514).

POOLING.

Pooling arrangement undertaking to promote the relief of congestion at tide-water points. *Tidewater Demurrage*, 677 (681).

POTENTIAL COMPETITION. See COMPETITION (POTENTIAL).**POWER OF COMMISSION.**

Commission has not the power to require the railroads, in the face of varying trade conditions, to adjust their rate schedules in such manner as to insure to a market the continuance of a trade it has once enjoyed. *Lake Cargo Coal Rates*, 159 (165).

It is not within the power of the Commission, nor is it the duty of the carriers, so to adjust freight rates as to maintain a fixed relation of tonnage as between given points or districts of origin. *Id.* (166).

PREFERENCES AND PREJUDICES.**Articles:**

Iron and steel articles: Defendants' failure to accord fabrication service on iron and steel articles at Greenville, Pa., for use in the construction of towers, tanks, etc., while according such service at other points on such articles for use in construction of bridges and buildings, found unduly prejudicial. Reparation denied. *Chicago Bridge & Iron Co. v. E. R. R. Co.* 641 (644).

Lumber: Rates on cedar lumber from North Carolina points to points in C. F. A. and Trunk Line Territories higher than rates on pine, oak, and other common lumber, found unduly prejudicial to the extent that they exceed the rates on common lumber. *Brown Co. v. S. Ry. Co.* 536 (540).

Lumber: Rates on lumber from Whiteville and other North Carolina points to Virginia gateways not shown unduly prejudicial or disadvantageous as compared with rates on logs. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (626).

PREFERENCES AND PREJUDICES—Continued.

Articles—Continued.

Lumber: Through rates on lumber and lumber products from the inland empire to c. f. a. territory, composed of commodity rates to the gateways and proportional rates east thereof, not shown unduly prejudicial as compared with joint rates on other commodities. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (655).

Radiators: Rate on cast-iron radiators with gas heating attachments, from New Comerstown, Ohio, to San Francisco, Cal., not found unreasonable or unduly prejudicial as compared with rate on radiators without gas heating attachments. *Gas & Electric Appliance Co. v. A., T. & S. F. Ry. Co.* 440 (442).

Boat line: The practice of participating in through routes and joint rates between Caloosahatchee River landings, in Florida, and various destinations, with competitor while refusing to do so with complainant's boat line, results in an undue disadvantage and preference that defendant will be expected to remove. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.*, 309 (312).

Localities:

Baltimore, Md.: Fact that the failure to remove flour from B. & O. R. R. Co.'s warehouses at Baltimore within the free time period entails the payment of 30 days' charges, while at Philadelphia charges are applied for 10-day and 15-day periods, not found to result in undue prejudice to Baltimore. *Flour Storage.* 295 (296).

Birmingham, Ala.: Charge of \$5 per carload assessed by the Birmingham Belt R. R. Co., for switching complainants' traffic between Birmingham and North Birmingham, Ala., while assessing a charge of only \$2 for switching traffic within the corporate limits of Birmingham, not found unduly prejudicial. *Alabama Packing Co v. A. G. S. R. R. Co.* 335 (342).

Buffalo, N. Y.: Ex-lake rates on grain and products, domestic and export, from Buffalo to the Atlantic seaboard and interior points not found unreasonable or unduly preferential to Chicago to the prejudice of Buffalo. *Buffalo Grain Cases,* 570 (580).

Buffalo, N. Y.: Failure of carriers to maintain ex-rail reshipping rates on grain and products, domestic and export, from Buffalo to the Atlantic seaboard and interior points, while maintaining such rates from Chicago to the same destinations found to be unduly preferential of Chicago to the undue prejudice of Buffalo. *Id.* (582).

Buffalo, N. Y.: Refusal to accord transit service for the same charge at points east of Buffalo on grain moving from Buffalo as accorded at the same points on grain from Chicago, Toledo, Detroit, Cleveland, and Sandusky, found to be unduly prejudicial of Buffalo. *Id.* (584).

Cairo, Ill.: Maintenance of reshipping rates on grain and products from Chicago, Peoria, and East St. Louis, Ill., and from St. Louis, Hannibal, and Louisiana, Mo., but not from Cairo, is unduly prejudicial to Cairo. Publication of reshipping rates from Cairo to destinations involved not more than 1 cent higher than maintained from St. Louis prescribed. *Cairo Board of Trade v. C., C. & St. L. Ry. Co.* 343 (351).

Cairo, Ill.: Carload rates on egg-case material in shook form from Cairo, Ill., to points in Kentucky and Tennessee found to be unduly prejudicial to Cairo as compared with the rates from Memphis, Tenn. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (698).

Chapman, Pa.: Joint rail-and-water rates on cement from Chapman and Evansville, Pa., to Savannah, Ga., and Jacksonville, Fla., not found unduly prejudicial as compared with combination rate from Martin's Creek, Pa. *Allentown Portland Cement Co. v. M. & M. T. Co.* 492 (494).

PREFERENCES AND PREJUDICES—Continued.

Localities—Continued.

Connellsville district: Rates on bituminous coal from the Connellsville district to points in Ohio, and to all points in C. F. A. territory described, found unduly prejudicial to the Connellsville district to extent these rates exceed rates from the Pittsburgh district. Bituminous Coal to C. F. A. Territory, 66 (130, 145).

Connellsville district: Rates on bituminous coal from the Connellsville district to Youngstown, Ohio, and points taking Youngstown rates found unduly prejudicial to the Connellsville district and unduly preferential of the Pittsburgh district to extent that the rates from the Connellsville district exceed the rates from the Pittsburgh district by more than 8 cents per short ton. Id. (145).

Connellsville district: Rates from Connellsville district to Cleveland, Ohio, and other points in "affected" territory in Ohio (described), other than points taking Youngstown rates, found unduly prejudicial to the Connellsville district and unduly preferential of the Pittsburgh district to extent that the rates from Connellsville district exceed the rates from the Pittsburgh district by more than 6 cents per short ton. Id. (145).

Connellsville district: Differential of 12 cents in rates on lake cargo coal, Connellsville district over the Pittsburgh district found to result in undue prejudice to the Connellsville district and unduly preferential of the Pittsburgh district. Lake Cargo Coal Rates, 159 (170, 175).

Duluth, Minn.: Rail-and-lake rates to Duluth on commodities from points east of the Indiana-Illinois state line should be less than the rail-lake-and-rail rates to the twin cities by the differential prescribed in the *Duluth Case*, 27 I. C. C., 639, of the class to which the commodity belongs, and all commodity rates which fail to maintain such differential are unduly prejudicial to Duluth and unjustly preferential of the twin cities. Second Duluth Case, 585 (590).

Duluth, Minn.: Rail-and-lake class and commodity rates to Duluth from points in trunk line and C. F. A. territories higher than the rail-and-lake rates from the same points to Chicago are unduly prejudicial of Duluth. Id. (591).

Huntingburg, Ind.: Rates on lumber and other forest products from Huntingburg to points in Illinois, Michigan, and Wisconsin, not shown unreasonable or unduly prejudicial as compared with other rates in the same territory including rates from the Rockport group, farther distant points. *Stimson v. S. Ry. Co.* 429 (431).

Huntington, W. Va.: Class rates from Huntington to Norfolk & Western main and branch line stations between Matewan, W. Va., and Salem, Va., both inclusive, found unduly prejudicial to the extent they exceed class rates in effect from Portsmouth, Ohio. Chamber of Commerce of Huntington, W. Va., *v. C. & O. Ry. Co.* 432 (437).

Indianapolis and Terre Haute, Ind.: Adjustment of class and commodity rates between the Ohio River crossings and Indianapolis and Terre Haute, and between Chicago, Peoria, Milwaukee, and Davenport, on traffic to the southeast, found to result in undue prejudice to shippers of southeastern traffic at Indianapolis and Terre Haute. Indianapolis Chamber of Commerce *v. C., C. & St. L. Ry. Co.* 547 (556).

Intermountain territory: Maintenance of lower rates to Pacific coast cities and higher rates to intermediate points, under the circumstances outlined, is unduly preferential to the coast points and unduly prejudicial to the intermediate points. Transcontinental Rates, 236 (269).

PREFERENCES AND PREJUDICES—Continued.

Localities—Continued.

- Iowa cities:** Maintenance of higher commodity rates to the interior Iowa cities from Springfield, Ill., than maintained from Springfield to St. Paul on the same articles is unduly prejudicial to the Iowa cities. Maintenance of same basis ordered. *State of Iowa v. Wabash Ry. Co.* 703 (708).
- Johnson City, Tenn.:** Class and commodity rates on traffic from Cincinnati, or through Cincinnati from beyond, to Johnson City, Tenn., by way of St. Paul or Speer's Ferry, found to subject Johnson City to undue prejudice and Bristol, Tenn.-Va., to undue preference. Chamber of Commerce of Johnson City, Tenn., *v. S. Ry. Co.* 527 (534).
- Lake Charles, La.:** It is unnecessary to consider the allegations of unjust discrimination and undue preference on rough rice from California points to Lake Charles, La., as compared with rates to Orange and Beaumont, Tex., as it is not shown that complainant was damaged. *Lake Charles Rice Milling Co. v. S. P. Co.* 661 (663).
- Lake Charles, La.:** Rail-and-water rates on clean rice from Lake Charles, La., to Atlantic seaboard points not shown unduly prejudicial as compared with rates from Beaumont and Orange, Tex. *Id.* (664).
- Louisiana points:** Rates on turpentine and rosin from stations on the Kentwood & Eastern Ry. to St. Paul and Minneapolis, Minn., found unreasonable and unduly prejudicial as compared with rates from New Orleans. Reparation awarded. *Barber Agency Co. v. K. & E. Ry. Co.* 523 (526).
- Michigan cities:** Rates on bituminous coal from Ohio mines and the inner and outer Crescent groups to the interior Michigan cities found unduly prejudicial against the interior Michigan cities and unduly preferential of Toledo, Ohio, to amounts specified. Bituminous Coal to C. F. A. Territory, 66 (90, 107, 144, 145).
- Minneapolis, Minn.:** Failure to provide transit on other grains than wheat, rye, and oats, or upon seeds, at Minneapolis, Minn., while competitors at Milwaukee and Chicago enjoy transit on grain and seeds of all kinds, not found to result in undue prejudice to Minneapolis. *Minneapolis Traffic Assn. v. C., M. & St. P. Ry. Co.* 685 (687, 690).
- Mississippi River cities:** Alleged that the maintenance of higher rates to the upper Mississippi River cities than to St. Louis results in undue prejudice. *Held*, There should be no difference in these rates when distances are the same; differentials prescribed on various classes for distances over 25 miles. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (28, 38).
- Mississippi River cities:** Ocean-and-rail and rail-lake-and-rail class rates from the upper Mississippi River cities to points in trunk-line territory found unduly prejudicial as compared with rates from the lower Mississippi River cities. Reparation denied. *R. R. Com'rs of Iowa v. A., T. & S. F. Ry. Co.* 63 (66).
- Mitchell, S. Dak.:** Class rates to and from Mitchell, S. Dak., from and to points east or south of Sioux City, Iowa, and Sioux Falls, S. Dak., found unduly prejudicial to extent they exceeded rates composed of proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and Sioux Falls. Rates prescribed and reparation denied. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (13).
- Monmouth and Macomb, Ill.:** In support of contention that rates on stoneware from Monmouth and Macomb, Ill., to Billings and Harlowton, Mont., were unduly prejudicial as compared with rates from Red Wing, Minn., complainant merely asserted that it was unable to compete with such rates. Rates found justified. *Western Stoneware Co. v. O., B. & Q. R. R. Co.* 331 (333).

PREFERENCES AND PREJUDICES—Continued.

Localities—Continued.

- Natchez, Miss.: Rates on lime to Natchez, Miss., from points in Alabama, Tennessee, Georgia, and Kentucky, not shown unreasonable, unduly prejudicial, or unjustly discriminatory as compared with the rates to New Orleans, La. *Natchez Chamber of Commerce v. Y. & M. V. R. R. Co.* 60 (62).
- New Orleans, La.: Maintenance of provisions for concentration of cotton at Atlanta, Ga., from points on the Atlanta division of the L. & N. railroad for reshipment to South Atlantic ports and denying concentration at that point when for reshipment to New Orleans found unduly prejudicial to New Orleans. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (721).
- New Orleans, La.: Maintenance of provisions for concentration of cotton at Montgomery and Selma, Ala., when for reshipment to Mobile and Pensacola, and the denial of such concentration at these points when for reshipment to New Orleans found unduly prejudicial to New Orleans. *Id.* (721).
- New Orleans, La.: Maintenance of provisions for concentration of cotton at Pensacola when for reshipment to eastern cities and the denial of such concentration at Pensacola when for reshipment to New Orleans found not unduly prejudicial to New Orleans. *Id.* (721).
- New Orleans, La.: Maintenance of rates on uncompressed cotton in connection with the phrase "with privilege of carrier of compressing" not shown to have produced undue prejudice against shippers or the port of New Orleans. *Id.* (727).
- New Orleans, La.: Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to New Orleans and Mobile found not unduly prejudicial to New Orleans. *Id.* (731, 732).
- New Orleans, La.: Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to south Atlantic ports on the one hand and to New Orleans on the other not shown to be unduly prejudicial to New Orleans. *Id.* (732, 733.)
- Ohio districts: Differential of 25 cents per ton between rates from the Ohio and inner Crescent districts to "affected" territory found unduly prejudicial to Ohio districts and unduly preferential of the inner Crescent districts to extend said differential is less than 40 cents per ton, and for the future will be, unduly prejudicial to the inner Crescent districts and unduly preferential of the Ohio districts to extent that the said differential is more than 40 cents per ton. *Bituminous Coal to C. F. A. Territory*, 66 (90, 116, 129, 145).
- South Dakota points: Rates on coal from Wyoming mines to points in South Dakota on the C. & N. W. and C., M. & St. P. railways, east of Rapid City and Miles City, with exception of rates to points on the Winner branch, found to be unreasonable and unduly prejudicial as compared with rates maintained to equidistant points in Nebraska. *Coal to South Dakota*, 628 (638, 639).
- Vulcanite, N. J.: Joint rate on portland cement from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, Pa., for transshipment by water, which exceeds by more than 10 cents per net ton the rate from Martins Creek, Pa., subjects complainants to undue prejudice. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483 (487).
- State and interstate: Defendant's refusal to switch interstate traffic to and from complainant carrier's tracks, at Fayetteville, Ark., while performing such service on intrastate traffic, not shown unduly prejudicial. *Kansas City & Memphis Ry. Co. v. St. L. & S. F. R. R. Co.* 464 (465).

PREFERENCES AND PREJUDICES—Continued.

Switching: Proposed increased charge for switching from N. Y. C. R. R. Co.'s rails to transfer tracks of the C., H. & D. Ry., at Toledo, Ohio, would result in undue prejudice to traffic received by way of the C., H. & D., and delivered to N. Y. C.'s rails and to similar traffic in the opposite direction. Increase found not justified. Toledo Switching, 293 (294).

Tap line: The denying to complainant or its tap line, The East & West Louisiana Ry., allowances out of its rate while making allowances to certain other tap lines, under the circumstances, not found to have resulted in unlawful prejudice. Damages denied. Davis Bros. Lumber Co. v. C., R. I. & P. Ry. Co. 501 (505).

PREPAYMENT.

A carrier has, as a matter of law, the right to require the prepayment of all charges before accepting a shipment for transportation. New York Produce Exchange v. B. & O. R. R. Co. 666 (671).

PRIMARY GRAIN MARKET.

Buffalo. Buffalo Grain Cases, 570 (581).

PRODUCTION.

Cement: In 1915 there were manufactured in the Lehigh district more than 24,000,000 barrels of cement, approximately 29 per cent of the total production in the United States in that year. Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J. 483 (485).

Coke: Table showing the production of by-product coke, compared with that of beehive coke, showing per cent of quantity of each to the total. Bituminous Coal to C. F. A. Territory, 66 (134).

Cotton: The state of Texas produces each year a crop of cotton, estimated at 5,000,000 bales. Direct Navigation Co. 378 (379).

Cotton: Produced in the territory south of the Ohio and east of the Mississippi rivers for the nine years 1905 to 1914, by states, shown. New Orleans Cotton Exchange v. L. & N. R. R. Co. 712 (718).

Lumber: Production of cedar lumber in North Carolina in 1913 shown and compared with that of common lumber. Brown & Co. v. S. Ry. Co. 536 (537).

Lumber: The annual cutting of lumber in the inland empire has never exceeded 1,750,000,000 feet. There has been a tendency to force the output in order to secure means to meet the increased expenses. Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co. 650 (652).

Petroleum: In 1900 the output of petroleum of the midcontinent oil field was less than a million barrels; in 1909, about 50,000,000 barrels; and in 1912 in excess of 65,000,000 barrels. Kanotex Refining Co. v. A., T. & S. F. Ry. Co. 495 (498).

PROPORTIONAL RATES. *See also* TRANSHIPMENT.

Class rates to Mitchell, S. Dak., from points east of the Indiana-Illinois state line and north of the Ohio and Potomac rivers found unreasonable and unduly prejudicial to extent that they exceed rates composed of the proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and Sioux Falls. Reasonable rates including proportional rates from the upper Mississippi River crossings prescribed. Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co. 1 (13-14).

The Mississippi-Missouri river proportional class scale, whatever its measure, shall for the future be equitably prorated across the state of Iowa in constructing reasonable maximum proportional class rates between the west bank of the Mississippi River and interior Iowa cities on traffic originating at or destined to points in official territory east of the Indiana-Illinois state line. Interior Iowa Cases, 39 (59, 60).

PROPORTIONAL RATES—Continued.

Table showing proportional class scale on traffic to and from points east of Indiana-Illinois state line, to be applied between the west bank of the Mississippi River and interior Iowa cities. *Id.* (60).

Former finding that proportional rate on lumber and lumber products from Morehouse, Mo., to Thebes, Ill., destined to points beyond, was and for the future would be unreasonable to the extent it exceeded 5½ cents per 100 pounds, affirmed on rehearing. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (483).

The Commission has never doubted its authority to reduce an excessive proportional rate where it results in an unreasonable through rate. *Id.* (480).

Adjustment of class and commodity rates between the Ohio River crossings and Indianapolis and Terre Haute, and between Chicago, Peoria, Milwaukee, and Davenport on traffic to southeast found to result in undue prejudice to shippers of southeastern traffic at Indianapolis and Terre Haute. *Indianapolis Chamber of Commerce v. C., C. & St. L. Ry. Co.* 547 (556).

Commission unable to prescribe as proportional rates lower rates than the present rates used in combination to make the through rates on rail-lake-and-rail and rail-and-lake traffic from trunk line and C. F. A. territory to Duluth. *Second Duluth Case*, 585 (590).

Contention that proportional rates should not be limited to traffic originating at or destined to particular points, but that, like any other separately established rates, they should be available to all shippers from and to all points and that proportional rates which vary with points of origin or destination are unlawful, not sustained. *State of Iowa v. B. & O. R. R. Co.*, 595 (597, 599).

It is not shown that rates on lumber from North Carolina points to Virginia gateways are too high when applied on through shipments, or that the through rates are unreasonable. The Commission does not feel justified in requiring a reduction merely that there may be proportional rates lower than the local rates. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (627).

"PROUTY SCALE."

Referred to. *Interior Iowa Cases*, 39 (53, 56).

PUBLIC INTEREST. See also DAMAGES.

In a proceeding of investigation and suspension, the general public has an interest; and the fact that the respondents during such a proceeding shift their original ground of justification is not material, as the Commission must give consideration to all material facts of record. *Bituminous Coal to C. F. A. Territory*, 66 (109).

Continuance of operation of navigation company between Houston and Galveston, Tex., is in the interest of the public. *Direct Navigation Co.* 378 (382).

PURPOSE OF ACT.

The law contemplates that rates must be reasonable both as to the shipper and the carrier. *Bituminous Coal to C. F. A. Territory*, 66 (114).

One of the primary purposes of the act to regulate commerce was to preserve competition between carriers. *Transcontinental Rates*, 236 (277).

RAIL-AND-LAKE RATES. See also RAIL-WATER-AND-RAIL RATES.

Charges for the transportation of lake cargo coal to the lake ports for transshipment must be dealt with separately and distinctly from services performed by the water carriers. *Lake Cargo Coal Rates*, 159 (185).

The Commission has never exercised jurisdiction over the individuals or companies performing the intermediate lake services on lake cargo coal between the lower and upper lake ports going to interior points. *Id.* (185).

RAIL-AND-LAKE RATES—Continued.

Rail-and-lake rates to Duluth on commodities from points east of the Indiana-Illinois state line should be less than the rail-lake-and-rail rates to the twin cities by the differential prescribed in the *Duluth Case*, 27 I. C. C., 639, of the class to which the commodity belongs, and all commodity rates which fail to maintain such differential are unduly prejudicial to Duluth and unjustly preferential of the twin cities. Second *Duluth Case*, 585 (580).

RAIL AND WATER COMPETITION. See **COMPETITION (RAIL AND BOAT LINE; RAIL AND WATER).**

RAIL-AND-WATER RATES. See also **BOAT LINES; OCEAN-AND-RAIL; RAIL-AND-LAKE; RAIL-WATER-AND-RAIL RATES.**

Rates on certain commodities from Pacific coast ports via rail-and-water routes through Galveston to the Atlantic seaboard should be revised to accord with the long and short haul rule. *Transcontinental Rates*, 236 (275, 276).

Joint rail-and-water rates on cement from Chapman and Evansville, Pa., to Savannah, Ga., and Jacksonville, Fla., found justified and not shown unduly prejudicial as compared with combination rate from Martin's Creek, Pa. Allentown Portland Cement Co. v. M. & M. T. Co. 492 (494).

All-rail and rail-and-water rates on pig iron from Birmingham, Ala., etc., to New York, Philadelphia, Baltimore, and interior points in trunk-line territory, and to Boston and Providence, and all-rail rates to New England points not shown unreasonable. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (567, 569).

Fourth section relief as to rail-and-water rates on cotton from points on the Mobile & Ohio Railroad via Mobile and the Malloy S. S. line to eastern cities, denied. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (750).

RAIL-LAKE-AND-RAIL RATES.

Ocean-and-rail and rail-lake-and-rail class rates from the upper Mississippi River cities to points in trunk line territory found unduly prejudicial as compared with rates from the lower Mississippi River cities. Reparation denied. *R. R. Com'rs of Iowa v. A. A. & S. F. Ry. Co.* 63 (65).

RAIL-WATER-AND-RAIL RATES.

Through rail-water-and-rail rates on pig iron from southern producing points to interior New England points, plus handling charge and local rates from the ports, prescribed. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (569).

RATE COMPARISONS.

Rates between two localities are not comparable with rates between two different localities merely because the traffic density of one destination locality is substantially the same as that of the other. The relative traffic density of the two localities of origin and of the intermediate territories must also be considered. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (9).

Rate relationships between the upper and lower Mississippi River cities, prior to April 1, 1914, compared. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (24).

Comparison of bituminous coal rates applicable from mines in Ohio with rates approved or prescribed by the Commission. *Bituminous Coal to C. F. A. Territory*, 66 (87).

Comparison of rates from Ohio to points in "affected" territory with eastbound rates from Pennsylvania and West Virginia districts to equidistant points in official classification territory. *Id.* (88).

Comparison of rates on grain and grain products from Chicago and Buffalo, to New York, Philadelphia, and Baltimore. *Buffalo Grain Cases*, 570 (577).

Comparison of the all-rail reshipping rates on grain from Chicago to New York, Philadelphia, and Baltimore, with the lake-and-rail rates through Buffalo to the same points. *Id.* (578).

REBILLING RATE. *See* **RESHIPING RATE.****RECONSIGNMENT.**

Finding and conclusions in *The Detroit Reconsigning Case*, 25 I. C. C., 392; 37 I. C. C., 274, that the assessment of a \$2 charge for reconsigning coal at Detroit, under the circumstances and conditions, was not unreasonable or otherwise unlawful, reaffirmed. *Detroit Coal Co. v. M. C. R. R. Co.* 231 (235).

Any reconsignment, even a reconsignment in transit where no terminal conditions are involved, means an expense to the carrier, for which it may properly be recompensed. *Id.* (235).

Charges on lumber from Chapman, Ala., to Cairo, Ill., reconsigned to Bridge-water, Mich., on basis of combination rate found unlawful and unreasonable to extent they exceeded charges on basis of through rate. Provision in tariff for applying through rate when, "all the roads over which the shipment travels will join in protecting the through rate," found uncertain and unlawful. Reparation awarded. *National Wholesale Lumber Dealers' Assn. v. L. & N. R. R. Co.* 307 (308).

Defendant should have permitted reconsignment of hoops in transit from Troy, Ala., to Fruitland, Md., at Macon, Ga., on basis of the through rate plus a maximum charge of \$5. Reparation awarded. *Independent Coopersage Co. v. C. of G. Ry. Co.* 361 (362).

Combination rate on prunes from Emmett, Idaho, to Chicago, Ill., reconsigned to Liberal, Kans., subsequently reconsigned to Greensburg, Kans., and then to Pratt, Kans., found unreasonable to the extent it exceeded joint rate subsequently established to Liberal, plus lawful charges for the movements to Greensburg and Pratt. Reparation awarded. *Earle Fruit Co. v. O. S. L. R. R. Co.* 510 (512).

Reconsignment charge of \$2 per car established as an incentive to the direct billing of carload freight to places of final delivery within New York light-erage limits, and having for its object the relief of the congestion and car shortage situation at New York, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (670).

Reconsignment and transit are not so similar that the granting of one would require that the other be accorded. *Minneapolis Traffic Assn. v. C., M. & St. P. Ry. Co.* 685 (689).

REDUCTION.

Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., for transshipment, found justified. *Tidewater Demurage*, 677 (684).

REDUCTION IN RATES.**In general:**

The Commission does not feel justified in requiring a reduction merely that there may be proportional rates lower than the local rates. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (627).

By carriers:

Reductions in rates made necessary to remove unlawful discriminations may be made effective on five days' notice to the Commission and the general public. *Bituminous Coal to C. F. A. Territory*, 66 (144, 146).

Present rates on ore and concentrates from points in New Mexico, to Douglas, Ariz., established subsequent to hearing are satisfactory to complainant. Complaint dismissed. *Arizona Corporation Commission v. A., T. & S. F. Ry. Co.* 297 (298).

REDUCTION IN RATES—Continued.

By carriers—Continued.

Rate on wooden hoops from Bay City, Mich., to Blytheville, Ark., found unreasonable to extent it exceeded rate subsequently established. Through error rate had been published as from Bay City, Wis. Reparation awarded. Creamery Package Mfg. Co. v. St. L. & S. F. R. R. Co. 303 (304).

Rates on crossties from points in Mississippi and Alabama, to Chicago, Ill., and Indianapolis, Ind., stopped and treated at Carbondale, Ill., found unreasonable to extent they exceeded rates subsequently established. Through error rates did not apply on shipments received by the Illinois Central at points south of Cairo, Ill. Reparation awarded. Ayer & Lord Tie Co. v. I. C. R. R. Co. 305 (306).

Combination rate on pig iron from Marquette, Mich., to Kansas City, Mo., found unreasonable to extent it exceeded joint rate subsequently established. Reparation awarded. Superior Charcoal Iron Co. v. M., M. & S. E. Ry. Co. 329 (330).

Rates on fresh meat, for import and export, transported between ship side and stations in New York, N. Y., found unreasonable to the extent they exceeded rates subsequently established. Reparation awarded. Swift & Co. v. N. Y. C. R. R. Co. 356 (358).

Combination rate on wheat from Kansas City, Mo., originating beyond, to Chicago, Ill., stored in transit at Leavenworth, Kans., found unreasonable to extent it exceeded through rate applying on wheat milled in transit at Leavenworth, and subsequently established on such storage service. Reparation awarded. Peirson-Lathrop Grain Co. v. C., B. & Q. R. R. Co. 359 (360).

The voluntary reduction of a rate, without other evidence, can not be considered a sufficient basis upon which to find the higher rate unreasonable. Du Pont de Nemours Powder Co. v. P. R. R. Co. 363 (364).

Joint rate on lumber from Willow, Tex., to Morris, Okla., found unreasonable to extent it exceeded rate subsequently established. Reparation awarded. Beaumont Timber Co. v. I. & G. N. Ry. Co. 410 (411).

Commodity rate on buckwheat flour from Janesville, Wis., to Geneva, Ill., found unreasonable to the extent it exceeded rate subsequently established. Reparation awarded. Blodgett Milling Co. v. C. & N. W. Ry. Co. 442 (444).

Commodity rates on refined petroleum from Caney and Coffeyville, Kans., to Woodward, Okla., found unreasonable to the extent they exceeded rate subsequently established. Reparation awarded. Kanotex Refining Co. v. A., T. & S. F. Ry. Co. 495 (499).

Joint rate on sewer pipe from Deepwater, Mo., to Elliott, Iowa, found unreasonable to the extent it exceeded rate subsequently established. Reparation awarded. Heckle v. C., B. & Q. R. R. Co. 513 (514).

Sixth-class rate on crude barytes from Lexington, Ky., to Philadelphia, Pa., found unreasonable to the extent it exceeded commodity rate subsequently established. Reparation awarded. Harrison Bros. & Co. v. L. & N. R. R. Co. 515 (517).

A reduction to meet the rate of a competing line is not ordinarily accepted as being sufficient to justify an award of reparation, but facts are shown of record that the class rate exacted was higher than the transportation conditions warranted. *Id.* (516).

REDUCTION IN RATES—Continued.

By Commission:

Class rates to and from Mitchell, S. Dak., from and to points east or south of Sioux City, Iowa, and Sioux Falls, S. Dak., found unduly prejudicial to extent they exceed rates composed of proportional rates applicable from the same points of origin to the Mississippi River on traffic for Sioux City and Sioux Falls. Rates prescribed and reparation denied. Commercial Club of Mitchell, S. Dak., *v. A. & W. Ry. Co.* 1 (13).

The Mississippi-Missouri river proportional class scale, shall be equitably prorated across the state of Iowa in constructing reasonable maximum proportional class rates between the west bank of the Mississippi River and interior Iowa cities on traffic originating at or destined to points in official classification territory east of the Indiana-Illinois state line. Commodity rates to be adjusted accordingly. Interior Iowa Cases, 39 (59-60).

The compulsory reduction of rates does not necessarily entitle shippers under the preexisting rates to reparation. Southwestern Millers League *v. A., T. & S. F. Ry. Co.* 299 (300).

Rates on stone from Lannon, Wis., to Chicago, Ill., found unreasonable and reasonable rates prescribed. Lake Shore Stone Co. *v. C., M. & St. P. Ry. Co.* 320 (322).

Joint rate on lumber from Springdale, Fla., to Wilksburg, Pa., found unreasonable to the extent it exceeded 31 cents per 100 pounds. Rate prescribed for the future to not exceed by more than 1 cent per 100 pounds the rate maintained from main-line stations on the A. C. L. R. R. in southern Georgia. Reparation awarded. Tunis-Cockey Lumber Co. *v. L. O., P. & G. R. R. Co.* 405 (406).

Rates on sand and gravel from Allison Branch, Ill., to certain Indiana points found unreasonable as compared with rates from Emison, Ind. Reasonable rates prescribed. Anderson-Theobald Co. *v. Vandalia R. R. Co.* 412 (414).

Combination rates on anthracite coal from Tamaqua, Nesquehoning and other Pennsylvania points, to Branchville, N. J., found unreasonable to the extent they exceeded or may exceed rates of \$1.65 per long ton on prepared sizes and of \$1.55 per long ton on pea size. Reparation awarded. Hopkins, Hough & Merrill Co. *v. D., L. & W. R. R. Co.* 427 (428).

Rates on canned goods in straight and mixed carloads from Salt Lake City and other points in Utah to Butte, Mont., found unreasonable to the extent they exceeded or may exceed 40 cents per 100 pounds, minimum 40,000 pounds. Reparation awarded. Davidson Grocery Co. *v. B., A. & P. Ry. Co.* 447 (449).

Rate on portland cement from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, Pa., found unreasonable to the extent it exceeds \$1.16 per net ton. Vulcanite Portland Cement Co. *v. C. R. R. Co. of N. J.* 483 (487).

Rates on turpentine and rosin from stations on the K. & E. Ry. in Louisiana, to St. Paul and Minneapolis, Minn., found unreasonable and unduly prejudicial. Reparation awarded and reasonable rates prescribed. Barber Agency Co. *v. K. & E. Ry. Co.*, 523 (526).

Rates on milk and cream, etc., in milk cans between points in C. F. A. territory and from certain points south of the Ohio River to Cincinnati, Ohio, found unreasonable and reasonable rates upon mileage basis prescribed. C. F. A. Territory Milk and Cream Rates, 601 (617).

REDUCTION IN RATES—Continued.**By Commission—Continued.**

Rates on lumber from Bolton, Whiteville, and Boardman, N. C., to Norfolk and other Virginia gateways found unreasonable compared with rates considered in *Cherokee Lumber Co. v. A. C. L. R. R. Co.*, 27 I. C. C., 438, and with rates from other North Carolina points. Reasonable rates prescribed. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (624).

REFRIGERATION.

Proposed rule requiring shipments of imported China wood oil and soya bean oil in wooden packages, to be in iced refrigerator cars, during the period from April 1 to October 31 each year, found not justified. *Vegetable Oils Transportation*, 674 (675).

REFUSAL TO ACCEPT.

Finding that shipments of China wood oil and soya bean oil in barrels, should not be required to be in iced refrigerator cars, during summer months, does not prevent carriers from declining to accept shipments in defective or unsuitable barrels. *Vegetable Oils Transportation*, 674 (675).

REHEARING. See also SUPPLEMENTAL REPORT.

Finding and conclusions in *The Detroit Reconsigning Case*, 25 I. C. C., 392, 37 I. C. C., 274, that the assessment of a \$2 charge for reconsigning coal at Detroit, under the circumstances and conditions, was not unreasonable or otherwise unlawful, reaffirmed. *Detroit Coal Co. v. M. C. R. R. Co.* 231 (235).

Former finding that on gas cooking stoves from points east of Missouri River to San Francisco, Cal., a commodity rate of general application did not apply when a higher rate specifically provided for gas stoves, adhered to on rehearing. *Boardman Co. v. A., T. & S. F. Ry. Co.* 352 (354).

Former finding that increased ratings in the official classification on old beer cooperage, old beer bottles, and old bottle carriers had been justified, adhered to on rehearing. *Official Classification Ratings*, 383 (387).

Former decision prescribing reasonable maximum rates on grain products from Trebein and Leesburg, Ohio, to points on the Norfolk & Western Railway between Kenova, W. Va., and Roanoke, Va., affirmed on rehearing. *Dewey Bros. Co. v. P., C., C. & St. L. Ry. Co.* 388 (396).

Former finding that proportional rate on lumber and lumber products from Morehouse, Mo., to Thebes, Ill., destined to points beyond, was and for the future would be unreasonable to the extent it exceeded 5½ cents per 100 pounds, affirmed on rehearing. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (483).

Former finding that the device of first billing an interstate shipment to an intermediate intrastate point in order to defeat the interstate rate was unlawful, reaffirmed. *Kanotex Refining Co. v. A., T. & S. F. Ry. Co.* 495 (496).

Question of reasonableness of rates reserved in original report because of general inquiry then pending. On rehearing, reparation awarded on refined petroleum from Caney and Coffeyville, Kans., to Woodward, Okla., on basis of rate subsequently established. *Id.* (499).

RELATIONSHIP OF RATES.

Relationship of the rates on lake cargo coal from the Ohio, Connellsville, Altoona, Fairmont, Meyersdale, Cumberland-Piedmont, Kanawha, Kenova-Thacker, Kentucky, Hocking, New River, and Pocahontas coal districts is unduly prejudicial and preferential to the extent that the difference, differential, or spread in the rates as between the several districts named differs from that provided herein. *Lake Cargo Coal Rates*, 159 (177-189).

RELATIONSHIP OF RATES—Continued.

Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to New Orleans and Mobile found not unduly prejudicial to New Orleans. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (731, 732).

RELATIVE RATES. *See also PREFERENCES AND PREJUDICES (LOCALITIES).*

Allison Branch, Ill.: Rates on sand and gravel from Allison Branch, Ill., to certain destinations in Indiana found unreasonable as compared with rates from Emison, Ind. Reasonable rates prescribed. *Anderson-Theobald Co. v. Vandalia R. R. Co.* 412 (414).

Beatrice, Nebr.: Combination rates on chatts from Webb City, Mo., to Beatrice, Nebr., not shown unreasonable as compared with rates to Lincoln and Omaha, Nebr. *Abel & Roberts v. M. P. Ry. Co.* 301 (302).

Birmingham, Ala.: Rates on pig iron from Birmingham, Ala., to New York, Philadelphia, and Baltimore compared with rates from Chicago. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (565).

Bluefield, W. Va.: Class rates from Chicago and Cincinnati to Bluefield, compared with class rates to other points south of the Ohio River. *Dewey Bros. Co. v. P. C., C. & St. L. Ry. Co.* 388 (395).

C. F. A. territory: Rates on milk and cream between points in C. F. A. territory compared with rates on shipments to New York and Philadelphia, also with rates west of the Mississippi River. *C. F. A. Territory Milk and Cream Rates*, 601 (617, 619).

Chapman, Pa.: Comparison of rail-and-water rates on cement from Chapman and Evansville, Pa., to Savannah, Ga., and Jacksonville, Fla., with all-rail rates from southern points is not helpful. *Allentown Portland Cement Co. v. M. & M. T. Co.* 492 (494).

Crescent group: Relation of rates and distances from inner Crescent group to Detroit and interior Michigan points compared with rates and distances from same origin groups to Toledo. *Bituminous Coal to C. F. A. Territory*, 66 (102).

Douglas, Ariz.: Rates on ore and concentrates from points in New Mexico to Douglas, Ariz., compared with rates from same points to El Paso, Tex. *Arizona Corporation Commission v. A., T. & S. F. Ry. Co.* 297 (298).

Hawesville, Ky.: Combination rate on eggs from Hawesville, Ky., to New York, N. Y., compares favorably with rates from other points in Kentucky. *Rosenblatt v. L., H. & St. L. Ry. Co.* 325 (327).

Iowa points: Commodity rates from Peoria and Springfield, Ill., to interior Iowa points not found unreasonable as compared with rates from St. Louis and Chicago, with certain exceptions. *State of Iowa v. Wabash Ry. Co.* 703 (708, 710).

Johnson City, Tenn.: Class and commodity rates from Chicago, Cleveland, Pittsburgh, and Cincinnati to Johnson City, Tenn., compared with rates from same destinations to Bristol, Va.-Tenn. *Chamber of Commerce of Johnson City, Tenn., v. S. Ry. Co.* 527 (530).

Lake Charles, La.: Rates on rough rice from California points to Lake Charles which at present are the same as to Beaumont and Orange, Tex., not found unreasonable. *Lake Charles Rice Milling Co. v. S. P. Co.* 661 (663).

Lannon, Wis.: Rate on stone from Lannon, Wis., to Chicago, Ill., found unreasonable as compared with the rates from Waukesha, Wis. Reasonable rates prescribed. *Lake Shore Stone Co. v. C., M. & St. P. Ry. Co.* 320 (322).

Mitchell, S. Dak.: Table showing relative comparison of class rates to Mitchell, S. Dak., with rates to Sioux City, Iowa, and Sioux Falls, S. Dak., from Chicago, St. Louis, Kansas City, Duluth, New Orleans, and New York. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (3).

RELATIVE RATES—Continued.

Monroe, La.: Rate proposed on cotton from Monroe to New Orleans is compared with rates from points in Mississippi and Alabama to New Orleans and Mobile, and is shown to be lower for similar distances. *Louisiana Cotton*, 451 (457).

Morehouse, Mo.: Comparison with rates from Wilson, Ark., to Evansville, Ind., fails to establish the reasonableness of the proportional rate on lumber from Morehouse, Mo., to Thebes, Ill. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (481).

New Orleans, La.: Theory that New Orleans should have lower rates than Memphis because the average distance from Louisiana points to New Orleans is less than to Memphis, and also that New Orleans is entitled to Gulf port rates, is unsound. *Louisiana Cotton*, 451 (459).

North Baton Rouge, La.: Rate on petroleum refined oil in tank cars, from North Baton Rouge to Tylertown, Miss., found unreasonable to extent it exceeded rate applicable from New Orleans, La. Reparation awarded. *Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co.* 418 (420).

Pittsburgh district: Comparison made with respect to the transportation of lake cargo coal from the Pittsburgh district and from the southern West Virginia and Kentucky districts. *Lake Cargo Coal Rates*, 159 (182).

Princeton, Ark.: Combination rate on lumber and staves from Princeton to various destinations, compared with joint rates from Eagle Mills, Ark. Joint rates established since the hearing are satisfactory to complainants. *Morgan v. F. V. R. R. Co.* 327 (328).

Springdale, Fla.: Joint rate on lumber from Springdale, Fla., to Wilksburg, Pa., found unreasonable to the extent it exceeded 31 cents per 100 pounds. Rate prescribed for the future not to exceed by more than 1 cent per 100 pounds the rate maintained from main-line stations on the A. C. L. R. R. in southern Georgia. Reparation awarded. *Tunis-Cockey Lumber Co. v. L. O., P. & G. R. R. Co.* 405 (406).

Washington, D. C.: Rates on shipments of cream to Washington compared with rates prescribed by the Commission in and around Chicago, in the *Beatrice Case*, 15 I. C. C. 109, but circumstances and conditions are dissimilar. *Golden & Co. v. Adams Express Co.* 541 (546).

Whiteville, N. C.: Rates on lumber from Bolton, Whiteville, and Boardman, N. C., found unreasonable as compared with rates considered in *Cherokee Lumber Co. v. A. C. L. R. R. Co.*, 27 I. C. C. 438, and rates from Wilmington and other North Carolina points, and reasonable rates prescribed. Rates from Goldsboro, Mount Olive, and Wilmington not shown unreasonable or improperly related. *Whiteville Lumber Co. v. A. C. L. R. R. Co.* 622 (625).

RELEASE OF CARS.

Release of cars at tidewater points would not only increase the carriers' revenues but would also benefit the public during these times of increased demand. *Tidewater Demurrage*, 677 (680).

RESHIPPING RATES.

Maintenance of reshipping rates on grain and products from Chicago, Peoria, and East St. Louis, Ill., and from St. Louis, Hannibal, and Louisiana, Mo., but not from Cairo, is unduly prejudicial to Cairo. Publication of such rates from Cairo to destinations involved not more than 1 cent higher than maintained from St. Louis, ordered. *Cairo Board of Trade v. C., C. & St. L. Ry Co.* 343.

A reshipping or rebilling rate is a proportional rate under which after a commodity has been shipped to a distributing market and unloaded for the purpose of storage or treatment in transit the same commodity or an equivalent amount may be reshipped to final destination. *Id.* (348).

RESHIPPING RATES—Continued.

There is a close analogy between reshipping rates and transit. *Id.* (348).

In determining whether or not a complainant has been damaged by the exaction of unreasonable or unduly preferential reshipping rates the total through charges paid from point of origin must be considered. But this does not hold true of a determination of the reasonableness or justness of the reshipping rate itself. *Id.* (350).

Reshipping rates are not merely divisions of through rates but are separately established rates generally published by carriers other than those engaged in the inbound movement and without the concurrence of the latter; and the point of reshipment is a rate-breaking point. A change in the reshipping rates, even though it may affect the through charges, will have no effect upon the inbound rates. *Id.* (350).

Failure of carriers to maintain ex-rail reshipping rates on grain and products, domestic and export, for Buffalo to the Atlantic seaboard and interior points, while maintaining such rates from Chicago to the same destinations, found to be unduly preferential of Chicago to the undue prejudice of Buffalo. *Buffalo Grain Cases*, 570 (582).

System of reshipping rates is more simple, easier of application, and less subject to abuse than any system involving transit arrangements with their attending complexities and difficulties of enforcement. *Id.* (582).

If, because of special characteristics, a market is entitled to reshipping rates, Buffalo should have them. *Id.* (582).

RETROACTIVE.

The Commission does not say that indeterminate transit rights may not in some proper way be brought within reasonable limits, but as to transit traffic on hand, this may not be done by an arbitrary retroactive application of a newly established rule. *Fargo Iron & Metal Co. v. G. N. Ry. Co.* 399 (400).

RETURN MOVEMENT.

The Commission does not subscribe to the theory that the reverse movement of empty beer containers should be treated as part of the movement of the beer. Former conclusion that increased ratings had been justified, adhered to on rehearing. *Official Classification Ratings*, 383 (387).

The movement of returned empty containers is largely over the line that handled the beer outbound, although no such requirement is made by the classification. *Id.* (384).

RETURN ON INVESTMENT. See INVESTMENT.**RETURNED EMPTIES. See EMPTY CONTAINERS.****REVENUE.**

Milk and cream revenue in trunk-line territory is about five and one-half times the revenue in C. F. A. territory; revenue in western trunk-line territory is nearly twice as much as that in C. F. A. territory. *C. F. A. Territory Milk and Cream Rates*, 601 (604).

RIVER TRANSPORTATION. See BOAT LINES.**ROAD HAUL.**

Because of rates in effect on automobiles to Johnson City, Tenn., dealers found it cheaper to have shipments made to Bristol, Tenn.-Va., and bring the automobiles over the wagon roads to Johnson City under their own power. *Chamber of Commerce of Johnson City, Tenn., v. S. Ry. Co.* 527 (538).

ROUTES.

Combination rate on eggs from Hawesville, Ky., to New York, N. Y., via Owensboro, Ky., or Evansville, Ind., not shown unreasonable as compared with rate when shipments are ferried across the Ohio River to Cannellton, Ind., and thence forwarded by rail to New York. *Rosenblatt v. L., H. & St. L. Ry. Co.* 325 (327).

ROUTES—Continued.

The existence of a lower rate over another line is not enough to establish the unreasonableness of the rate over the route of movement. *Id.* (325).

Rail and water route from Birmingham to Boston via Savannah is considerably shorter than the route via Norfolk, but the Norfolk gateway controls the traffic, although the same rates apply via Savannah. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (564).

ROUTING INSTRUCTIONS.

Initial carrier failed to transmit routing instructions and correct car number, thereby causing misrouting and resulting in demurrage and switching charges which were found illegally assessed. Reparation awarded. *Schuh-Mason Lumber Co. v. M. & O. R. R. Co.* 365 (368).

Where routing instructions name a specific rate that does not apply via the route designated, it is the duty of the carrier to secure further instructions. *Conference Ruling 286 (f).* *Earle Fruit Co. v. O. S. L. R. R. Co.* 510 (511).

SEASONAL TRAFFIC.

Should complainant boat line be accorded through routes and joint rates it will be expected to furnish service in the summer months as well as in the season of heavier traffic. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.* 309 (313).

Cotton: Great demand for equipment to move this seasonal crop. *Louisiana Cotton*, 451 (462).

SECTION 3.

Under section 3 a carrier is protected against having its terminals utilized by a competing carrier that has not provided itself with adequate terminals and thus desires to secure a line haul which the carrier with terminals is prepared to perform. *Kansas City & Memphis Ry. Co. v. St. L. & S. F. R. R. Co.* 464 (466).

SECTION 4. See also LONG AND SHORT HAUL; THROUGH AND LOCAL.

Duty of Commission under that clause of the fourth section, which permits them "from time to time to prescribe the extent to which such common carrier may be relieved," construed. *Transcontinental Rates*, 236 (246).

SECTION 5. See BOAT LINES.**SECTION 15.**

Commission found certain rates to be unreasonable in 29 I. C. C., 424, decided Feb. 9, 1914, and suggested that carriers revise such rates by May 1, 1914. Carriers failed to follow suggestion and order was entered accordingly, effective Oct. 1, 1914. Reparation on shipments moving between May 1 and Oct. 1, denied and no violation of section 15 resulted. *Southwestern Millers League v. A., T. & S. F. Ry. Co.* 299 (300).

SECTION 16.

Statistics contained in the annual or other reports of the carriers made to the Commission under, competent evidence. *Lake Cargo Coal Rates*, 159 (184).

SECTION 20.

Reports filed by carriers in compliance with Commission's order under, competent evidence. *Lake Cargo Coal Rates*, 159 (184).

SEPARATE PUBLICATION OF CHARGES.

Respondents required to state in their tariffs the amounts charged against the lake cargo coal traffic for the line-haul service from the mines to the docks at the lake ports and for the service of transferring the coal from the cars to the vessels at the docks. *Lake Cargo Coal Rates*, 159 (194).

SHIP SIDE.

Rates on fresh meat, for import and export, transported between ship side and stations in New York, N. Y., found unreasonable to the extent they exceeded rates subsequently established. Reparation awarded. *Swift & Co v. N. Y. O. R. R. Co.* 356 (358).

SHORT HAUL TRAFFIC.

The rates for a short haul may well be proportionately higher than for a long haul, but where the rates for less than 2 miles over the delivering line are more than one-third of the rates for 88 miles over the originating line, the disparity could be warranted only under unusual circumstances and conditions. *Hopkins, Hough & Merrill Co. v. D., L. & W. R. R. Co.* 427 (428).

SHRINKAGE.

The Commission has approved the assessing of charges on articles subject to shrinkage in transit on basis of origin weights. *Ewing & Co. v. O. S. L. R. R. Co.* 471 (472).

SIDETRACKS AND SPURS. *See* SWITCHING.

SLIDING SCALE.

Former sliding scale of rates went up and down with the price of iron. *Gloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (563).

SPECIAL CASES. *See* SECTION 4.

SPLIT CARS.

Split cars in connection with carloads of coal for transshipment, described. *Meeker v. C. R. R. Co. of N. J.* 657 (659).

SPREAD OF RATES.

Spread in rates to interior Michigan points over those to Detroit and Toledo is marked, but the rates to the latter cities are low and are depressed by circumstances and conditions that do not affect interior Michigan points. *Bituminous Coal to C. F. A. Territory*, 66 (106).

STATE AND INTERSTATE. *See also* JURISDICTION.

Shipments of piling from Lepanto, Ark., billed to official of St. L., I. M. & S. Ry. Co. at Bridge Junction, Ark., then hauled as company material to Clayton, La., were interstate shipments and interstate factor to Bridge Junction was legally applicable. *Bushnell v. St. L. & S. F. R. R. Co.* 445 (446).

From interior points in Louisiana such as Shreveport, Monroe, and Alexandria, cotton for export must move on interstate rates. *Louisiana Cotton*, 451 (452).

Rates on cotton from points in Louisiana to New Orleans for local delivery are mainly rates which were made to meet water competition, have been held down substantially to the original basis by the state commission, and apply whether the movement is entirely within the state or not. *Id.* (454).

Defendant's refusal to switch interstate traffic to and from complainant carrier's tracks, at Fayetteville, Ark., while performing such service on intrastate traffic, not shown unduly prejudicial. *Kansas City & Memphis Ry. Co. v. St. L. & S. F. R. R. Co.* 464 (465).

STATE LINES.

State boundary lines sometimes may fairly define regions of different traffic density when the rates to all points in such regions are in issue, but rates to particular points in one region can not fairly be compared with rates to competing points in the same region or in other regions on the basis of the tonnage to and from such regions as a whole. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (10).

STIPULATION.

Bituminous Coal to C. F. A. Territory Case, 46 I. C. C., 66, and the instant case so closely related that by stipulation the record in each case was made available for use in the other. *Lake Cargo Coal Rates*, 159 (163).

Evidence taken at hearings for relief under Panama Canal Act made available for use in instant case, by stipulation. *Transcontinental Rates*, 236 (266).

In a claim for reparation for alleged violation of section 4, parties stipulated that the issue should be controlled by the Commission's decision in *Blackwell Lumber Co. v. M. P. Ry. Co.*, 42 I. C. C., 756, then pending. Following that decision, reparation is denied. *Carey v. N. P. Ry. Co.* 372.

STIPULATION—Continued.

None of the parties appeared at the hearing, but filed a stipulation agreeing upon the facts in the case. *Tunis-Cockey Lumber Co. v. L. O., P. & G. R. R. Co.* 405.

STOPPAGE IN TRANSIT. See also TRANSIT ARRANGEMENTS.

Combination rate on cattle from Dryden, Tex., to Middlewater, Tex., stopped in transit at El Paso, Tex., for feeding and resting, found illegal to extent it exceeded joint rate. Reparation awarded. *Madero v. E. P. & S. W. R. R. Co.* 322 (324).

Defendant failed to stop car of lumber for dressing as instructed, resulting in through charges on weight of rough lumber, but testimony with respect to the estimated reduction in weight lacks the degree of certainty necessary for an award of damages. *Atlantic Lumber Co. v. T. & O. C. R. R. Co.* 368 (369).

STORAGE.

Storage charges on flour at Baltimore, Md., compared with charges on various other commodities. *Flour Storage*, 295.

Proposed increased charges for storage of flour in the B. & O. R. R. Co.'s warehouses at Baltimore, Md., found justified. *Id.* (296).

Rule that a shipper from an interior point in the United States must, as a condition precedent to the issuance of a through export bill of lading, guarantee the payment of such storage charges as may accrue at New York after the expiration of free time, found justified. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (671).

Rule that carload freight moved to New York as domestic traffic and subsequently exported can not be accorded the benefit of the more liberal storage charges applicable to export traffic, which rule was designed to prevent the circumvention of embargoes against the movement of freight to New York before ship space is secured, found justified. *Id.* (673).

SUBSEQUENTLY-ESTABLISHED RATES. See REDUCTION IN RATES (BY CARRIERS).**SUBSTITUTION OF DETENTION.**

Has been amply provided for in every instance where the average agreement is in effect. *Meeker v. C. R. R. Co. of N. J.* 657 (658).

SUBSTITUTION OF TONNAGE.

Shipments moving to New York on domestic bills of lading are sometimes used to replace shipments billed for export but which has not reached New York in time for ship's departure. *New York Produce Exchange v. B. & O. R. R. Co.* 666 (673).

SUPPLEMENTAL REPORT. See also REHEARING.

The Mississippi-Missouri river proportional class scale, whatever its measure, shall for the future be equitably prorated across the state of Iowa in constructing reasonable maximum proportional class rates between the west bank of the Mississippi River and interior Iowa cities on traffic originating at or destined to points in official classification territory east of the Indiana-Illinois state line. Commodity rates to be adjusted accordingly. *Interior Iowa Cases*, 39 (59-60).

Upon supplemental report long-and-short-haul departures involved in the readjustment of rates in c. f. a. territory disposed of. Lower rates to farther distant points authorized via circuitous routes; through higher rated groups; and through higher rated zones. *C. F. A. Class Scale Case*, 475.

Rates published by certain defendants from points in Iowa to points in Kansas on and north of the main line of the A., T. & S. F. Ry. to La Junta, Colo., found not to have been in accordance with the modification of the former order

SUPPLEMENTAL REPORT—Continued.

authorized in the supplemental report of the Commission dated June 17, 1915. Defendants required to revise their tariffs in the manner indicated herein. Iowa Board of R. R. Com'rs *v. A. E. R. R. Co.* 488 (491).

All-rail and rail-and-water rates on pig iron from Birmingham, Ala., etc., to New York, Philadelphia, Baltimore, and interior points in trunk line territory, and to Boston, and Providence, and all-rail rates to New England points not shown unreasonable. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (567, 569).

Through rail-water-and-rail rates on pig iron from southern producing points to interior New England points plus handling charge and local rates from the ports, prescribed. *Id.* (569).

SWITCHING.

Defendant's refusal to switch interstate traffic to and from complainant carrier's tracks, at Fayetteville, Ark., while performing such service on intrastate traffic, not shown unduly prejudicial. *Kansas City & Memphis Ry. Co. v. St. L. & S. F. R. R. Co.* 464 (465).

The Commission is without authority to require performance of switching service where it would require defendant to participate in through routes substantially less than its entire line. *I. & S. W. Ry. Co. v. C., B. & Q. R. R. Co.*, 42 I. C. C., 389, cited and followed. *Id.* (466).

Proposed elimination of two industries from list of industries on the M., K. & T. Ry. of Texas within the switching limits of Waco, Tex., and the establishment of prepay stations whereby increased charges would result on certain shipments found not justified. *Waco, Tex., Switching*, 647 (649).

Proposal of the N. Y. C. R. R. Co. to increase its charge from \$3 to \$5 per car for switching between its rails and the transfer track of the C., H. & D. Ry., at Toledo, Ohio, on account of controversy over switching crude oil in tank cars, found not justified. *Toledo Switching*, 293 (294).

Charge of \$5 per carload assessed by the Birmingham Belt R. R. Co., for switching complainant's traffic between Birmingham and North Birmingham, Ala., while making a charge of only \$2 per carload for switching traffic within the corporate limits of Birmingham, not found unreasonable. *Alabama Packing Co. v. A. G. S. R. R. Co.* 335 (341).

Switching charges on a car of lumber at St. Louis, Mo., shipped from N. A. 604 Mile Post, Ga., resulted from failure of carrier to transmit routing instructions and correct car number, and were illegally assessed. Reparation awarded. *Schuh-Mason Lumber Co. v. M. & O. R. R. Co.* 365 (368).

As wheat from points in Idaho and Utah to Los Angeles, Cal., was competitive traffic within the meaning of defendants' absorption rule, switching charge of \$2.50 per car at Los Angeles found to have been collected without tariff authority. Reparation awarded. *Globe Grain & Milling Co. v. L. A. & S. L. R. R. Co.* 645 (646).

Reparation on account of charges collected for switching interstate carload traffic to and from industries located upon spurs and side tracks within the switching limits of San Francisco and Los Angeles, Cal., and other points, denied, following *Boardman Co. v. S. P. Co.*, 37 I. C. C., 81. *Hulme & Hart v. A., T. & S. F. Ry. Co.* 665.

TAP LINE.

Joint rates from Princeton, Ark., to certain specified destinations, in effect prior to *The Tap Line Case*, were canceled following that decision. Joint through rates established subsequent to hearing are satisfactory to complainants. *Morgan v. F. V. R. R. Co.* 327 (328).

TAP LINE—Continued.

Following ruling of the Supreme Court in the *Tap Line Case*, 234 U. S., 1, no similarity in the circumstances and conditions found under which the Rock Island made allowances to certain tap lines while denying allowances out of its rate to complainant or to complainant's tap line, the *East & West Louisiana Ry. Davis Bros. Lumber Co. v. C., R. I. & P. Ry. Co.* 501 (505).

TARIFFS.

Contended by defendants that as linomeal contains a small quantity of ground flaxseed it should be rated as flaxseed screenings, *Held*, Tariff, properly interpreted, provides for the application to linomeal of the rate on grain screenings. *Tarkio Molasses Feed Co. v. C., B. & Q. R. R. Co.* 17 (19).

Tariff provisions can not be altered by custom or by the intention of the framers, or by any understanding or misunderstanding on the part either of the carriers or the shippers. *Detroit Coal Co. v. M. C. R. R. Co.* 231 (234).

Provision in tariff providing for reconignment on basis of through rate when "all the roads over which the shipment travels will join in protecting the through rate," found uncertain and unlawful. *National Wholesale Lumber Dealers' Asso. v. L. & N. R. R. Co.* 307 (308).

Tariff provisions should be so framed as to admit of no uncertainty, condition, or discrimination in their application. *Id.* (308).

In a reissue of tariff supplement carrier failed to include notation canceling certain rate. While not strictly in accordance with rule 8 (f), Tariff Circular 18-A, such failure did not have the effect of automatically establishing such rate. *Jewel Tea Co. v. P. Co.* 314 (316).

Former finding that a commodity rate of general application did not apply on gas cooking stoves from points east of Missouri River to San Francisco, Cal., when a higher rate specifically provided for gas stoves adhered to on rehearing. *Boardman Co. v. A., T. & S. F. Ry. Co.* 352 (354).

Tariff provided that on lumber milled in transit and delivered to connecting carrier, charges to junction point will be on weight of rough lumber and beyond the junction point on weight of dressed lumber, but it does not appear what rates the tariff proposes to assess. Such a provision is indefinite, improper, and unlawful and can not furnish a basis for reparation. *Atlantic Lumber Co. v. T. & O. C. R. R. Co.* 368 (370).

Failure to designate in tariff one of complainant's "off-track" freight stations in St. Louis, Mo., and refusal to compensate complainant for freight transferred from such station, found not to have been in violation of the act. *Columbia Transfer Co. v. C., B. & Q. R. R. Co.* 371 (372.)

Tariff rule relative to the compression of cotton, when received uncompressed and compressed by the carrier, found proper. *Louisiana Cotton*, 451 (460).

Wheat from points in Idaho and Utah to Los Angeles, Cal., could have been routed via the Santa Fe from San Bernardino, Cal., therefore was competitive traffic within the meaning of defendant's absorption rule. Switching charges at Los Angeles collected without tariff authority. Reparation awarded. *Globe Grain & Milling Co. v. L. A. & S. L. R. R. Co.* 645 (646).

The language of the tariff and not the intent of its author is controlling. *Id.* (646).

TERMINALS.

Under section 3 a carrier is protected against having its terminals utilized by a competing carrier that has not provided itself with adequate terminals and thus desires to secure a line haul which the carrier with terminals is prepared to perform. *Kansas City & Memphis Ry. Co. v. St. L. & S. F. R. R. Co.* 464 (466).

TERMINAL CHARGES.

On traffic from C. F. A. territory to the larger part of Iowa the rates to the Mississippi River include one terminal charge, and the rates west of the river include two terminal charges, making three terminal charges in all, plus arbitraries of 2 cents on the first and second classes and 1 cent on the remaining classes. Interior Iowa Cases, 39 (49).

TERMINAL RATES.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent. Transcontinental Rates, 236 (283).

THROUGH AND LOCAL.

Authority to continue joint through rates on classes and commodities between Mitchell, S. Dak., and points in western, southern, and official classification territories which exceed the aggregate of intermediate rates denied. Commercial Club of Mitchell, S. Dak. v. A. & W. Ry. Co. 1 (16).

Joint commodity rate on refrigerators from Waterloo, Iowa, to Memphis, Tenn., found unreasonable to the extent it exceeded or may exceed the aggregate of intermediate class rates in effect to and from Des Moines, Iowa. Reparation awarded. Herrick Refrigerator & Cold Storage Co. v. C. G. W. R. R. Co. 421 (423).

A joint rate that exceeds the aggregate of the intermediate rates, subject to the act, between the same points over the same route is *prima facie* unreasonable. Id. (422).

When joint rate was put in effect, lower combination rates applied and as such fourth section violations were not protected, the rate was unlawfully established. Heckle v. C., B. & Q. R. R. Co. 513 (514).

Authority to continue joint through rates on turpentine and rosin from points on the Kentwood & Eastern to St. Paul and Minneapolis, Minn., and other points in Minnesota, North and South Dakota, Nebraska, Iowa, and Canada, denied. Barber Agency Co. v. K. & E. Ry. Co. 523 (526).

Authority to continue rates on asphalt, articles of iron and steel, etc., from points of origin east of the Indiana-Illinois state line in C. F. A., trunk line, and New England territories, to destinations in Iowa, which exceed the aggregates of intermediate rates, denied. State of Iowa v. B. & O. R. R. Co. 595 (600).

Joint rate on rough rice from California points to Lake Charles, La., found unreasonable to the extent it exceeded combination rate contemporaneously in effect. Reparation awarded. Lake Charles Rice Milling Co. v. S. P. Co. 661 (663).

Rail-and-water rates on clean rice from Lake Charles, La., to Atlantic seaboard points found unreasonable to the extent they exceed the aggregate of intermediate rates. Reparation awarded. Id. (664).

Defendant's application to continue maintenance of through rates on clean rice from Lake Charles, La., to Atlantic seaboard points which exceed the aggregate of intermediate rates, denied. Id. (664).

THROUGH BILLS OF LADING.

A through export bill of lading is not a joint undertaking for the through carriage of property from an interior point in this country to a foreign port. It is merely an instrument combining for the convenience of the shipper the separate and several contracts of the rail carrier to the American port and of the ocean carrier beyond. New York Produce Exchange v. B. & O. R. R. Co. 666 (670).

THROUGH RATES. See also SWITCHING.

Through rates ordinarily should be somewhat less than the lowest combinations of intermediate rates, and should yield somewhat less per ton-mile than the rates to intermediate points. Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co. 1 (7).

THROUGH RATES—Continued.

Shipments of alfalfa meal from Kearney, Nebr., to Owensboro, Ky., were billed to Omaha, Nebr., in an attempt to secure lower intrastate rate to that point, then rebilled to Owensboro. *Held*, The shipments were through interstate shipments and the through rate was legally applicable. *Woolworth v. U. P. R. R. Co.* 437 (439).

The component of a rate may not be considered in the absence of an attack upon the through rate from point of origin to final destination. *Id.* (439).

The Commission has never doubted its authority to reduce an excessive proportional rate where it results in an unreasonable through rate. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480.

Where a rate adjustment is found to result in undue prejudice by reason of separately established factors, the carriers parties to the components of the through rates which are not attacked, and which do not in any way contribute to the undue prejudice found to exist, are proper but not necessary parties. *Indianapolis Chamber of Commerce v. C., C. & St. L. Ry. Co.* 547 (556).

Through rates on lumber and lumber products from the inland empire to c. f. a. territory, composed of commodity rates to the gateways and proportional rates east of the gateways, not shown unreasonable or unjustly discriminatory as compared with joint rates on other commodities. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (655).

The mere fact that through rates are composed of the aggregates of intermediate rates is not sufficient to condemn them, without proof that such an adjustment results in through rates which are unreasonable or otherwise in violation of the law. *Id.* (655).

THROUGH ROUTES AND JOINT RATES.

The practice of participating in through routes and joint rates with competitor between Caloosahatchee River landings, in Florida and various destinations, while refusing to do so with complainant's boat line results in an undue disadvantage and preference that defendant will be expected to remove. *Gulf Atlantic S. S. Co. v. A. C. L. R. R. Co.* 309 (312).

The Commission could not on the pleadings establish through routes and joint rates that would involve carriers not made parties to the case. *Id.* (313).

Through rates, joint or local, to all points in South Dakota, on the C. & N. W. and the C., M. & St. P. railways, to which through routes are open, should be established by the railways serving the mines located at Sheridan, Kirby, Hudson, Glenrock, Rock Springs, Hanna, and Cumberland, and such through rates should more nearly approximate the joint and local rates published by these same carriers from the same mines to points substantially equidistant in Nebraska and other states. *Coal to South Dakota*, 628 (640).

Through routes and joint rates on egg-case material in shook form from Cairo, Ill., to points in Kentucky and Tennessee, in connection with the various routes ordered maintained with differentials over Memphis ranging from 1 to 3 cents. *Weis-Peterson Box Co. v. M. & O. R. R. Co.* 693 (698-702).

"TIDEWATER COAL."

The phrase "tidewater coal" as applied to shipments described. *Tidewater Demurrage*, 677.

TON-MILE REVENUE.

In general:

Table showing the average rates to Mitchell and Sioux Falls, S. Dak., and Sioux City, Iowa, ton-mile revenue and distance, from Chicago, Duluth, St. Louis, Kansas City, New Orleans, and New York. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (4).

Revenue yield per ton-mile to St. Louis and upper Mississippi River cities, shown. *R. R. Com'rs of Iowa v. A. A. R. R. Co.* 20 (26).

TON-MILE REVENUE—Continued.**In general—Continued.**

Revenue yield per ton-mile of the first-class rate from New York City to the upper Mississippi River crossings, shown by carriers, to be lower than the revenue yield per ton-mile from New York City to St. Louis, Peoria, and Chicago. *Interior Iowa Cases*, 39 (53).

Chatts: Ton-mile yield on chatts from Webb City, Mo., to Beatrice, Nebr., and other points shown. *Abel & Roberts v. M. P. Ry. Co.* 301 (302).

Coal: Composite statements, showing average distances and per ton-mile earnings on bituminous coal from all mines in Ohio, Pittsburgh, and Pocahontas districts taking the same rate to destinations shown and Toledo, Ohio. *Bituminous Coal to C. F. A. Territory*, 66 (154-157).

Coal: Statement showing the revenue per ton per mile on lake cargo coal from the several districts and revenue per ton per mile that is earned on the differentials or the excess rate from one district compared with that from another for the additional haul. *Lake Cargo Coal Rates*, 159 (187).

Cotton: Rates and ton-mile earnings on cotton from various stations on the Southern Railway to New Orleans and to Charleston, shown. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (728).

Iron, pig: Ton-mile earnings on, from Birmingham, Ala., to New York, Philadelphia, and Baltimore by the all-rail and rail-and-water routes, and also from Chicago to New York, shown. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (565).

Lumber: Ton-mile earnings on lumber on proportional rate from Morehouse, Mo., to Thebes, Ill., shown at former and present rate, and compared with earnings between other points. *Himmelberger-Harrison Lumber Co. v. St. L. & S. F. R. R. Co.* 480 (482).

Lumber: Ton-mile earnings on lumber from the inland empire and from competitive points to c. f. a. territory, shown. *Western Pine Mfrs.' Asso. v. C. I. & W. R. R. Co.* 650 (652).

Stone: Ton-mile earnings on stone from Lannon, Wis., and other points to Chicago, Ill., shown. *Lake Shore Stone Co. v. C. M. & St. P. Ry. Co.* 320 (321).

TONNAGE. See also VOLUME OF TRAFFIC.

It is not within the power of the Commission, nor is it the duty of the carriers so to adjust freight rates as to maintain a fixed relation of tonnage as between given points or districts of origin. *Lake Cargo Coal Rates*, 159 (166).

Table showing the respective tonnage hauled by the Northern Pacific Railway Company for year ending June 30, 1916. *Transcontinental Rates*, 236 (259).

Great decline in tonnage handled by navigation company between Houston and Galveston, Tex., is the result of improvement in railroad facilities and commercial conditions incident to the war. *Direct Navigation Co.* 378 (381).

Commission can not say that because tonnage is less than it would be under lower rates, the existing rates are unreasonable. *Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co.* 558 (563).

Shipments of lumber from the inland empire to c. f. a. territory increased from 411 carloads in 1907 to 5,819 carloads in 1916, due to overproduction in an effort to meet increased expenses. *Western Pine Mfrs.' Asso. v. C. I. & W. R. R. Co.* 650 (652).

TRACK STORAGE. See DEMURRAGE.**TRAIN SPEED.**

Number of days it takes shipments of coal from mines to tidewater points shown. *Tidewater Demurrage*, 677 (682, 683).

TRANSCONTINENTAL RATES.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent. *Transcontinental rates*, 236 (283).

TRANSCONTINENTAL TRAFFIC.

The best interests of the public, of the transcontinental carriers, will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. *Transcontinental Rates*, 236 (268).

TRANSFER.

Transfer of less-than-carload traffic at East St. Louis requires little if any less handling than the transfer of such traffic at Chicago. *R. R. Com'n of Iowa v. A. A. R. R. Co.* 20 (37).

Respondents required to separately state in their tariffs the charges for transferring lake cargo coal from cars to the vessels at the ports. *Lake Cargo Coal Rates*, 159 (194).

TRANSIT ARRANGEMENTS. See also FEEDING AND WATERING; STOPPAGE IN TRANSIT.**In general:**

The Commission does not say that indeterminate transit rights may not in some proper way be brought within reasonable limits, but as to transit traffic on hand, this may not be done by an arbitrary retroactive application of a newly established rule. *Fargo Iron & Metal Co. v. G. N. Ry. Co.* 399 (400).

Refusal to accord transit service for the same charge at points east of Buffalo on grain moving from Buffalo as accorded at the same points on grain from Chicago, Toledo, Detroit, Cleveland, and Sandusky found to be unduly prejudicial of Buffalo. *Buffalo Grain Cases*, 570 (584).

Transit rules at Minneapolis, Minn., limiting the kinds of grain receiving transit, and character of transit, delimited area of production from which transit is accorded, and the exclusion of grain interests other than millers from the enjoyment of transit, not found unreasonable or discriminatory. *Minneapolis Traffic Assn. v. C. & St. P. Ry. Co.* 685 (686-692).

Reconsignment and transit are not so similar that the granting of one would require that the other be accorded. *Id.* (689).

Compression: Maintenance of rates on uncompressed cotton in connection with the phrase "with privilege to carrier of compressing" not shown to have produced undue prejudice against shippers or the port of New Orleans. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (727).

Concentration:

Tariff providing for transit service on junk at Fargo, N. Dak., with no time limit for reshipment was amended to limit the transit period to one year. On shipments moving from Fargo, after the amendment, local rates were assessed. *Held*, The rate legally applicable was the rate in effect at the time of movement to Fargo, and charges and transit balance should be adjusted accordingly. *Fargo Iron & Metal Co. v. G. N. Ry. Co.* 399 (400).

Maintenance of provisions for concentration of cotton at Atlanta, Ga., from points on the Atlanta division of the L. & N. R. R. for reshipment to south Atlantic ports and denying concentration at that point when for reshipment to New Orleans found unduly prejudicial to New Orleans. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (721).

Maintenance of provisions for concentration of cotton at Pensacola when for reshipment to eastern cities and the denial of such concentration at Pensacola when for reshipment to New Orleans found not unduly prejudicial to New Orleans. *Id.* (721).

TRANSIT ARRANGEMENTS—Continued.

Concentration—Continued.

Maintenance of provisions for concentration of cotton at Montgomery and Selma, Ala., when for reshipment to Mobile and Pensacola, and the denial of such concentration at these points when for reshipment to New Orleans found unduly prejudicial to New Orleans. *Id.* (721).

Fabrication:

Defendants' failure to accord fabrication service on iron and steel articles at Greenville, Pa., for use in the construction of towers, tanks, etc., not found unreasonable *per se*; but failure to accord such service while according it at other points on such articles for use in construction of bridges and buildings found unduly prejudicial. Reparation denied. *Chicago Bridge & Iron Co. v. E. R. R. Co.* 641 (644).

Contention that towers, tanks, standpipes, etc., are "buildings" within the meaning of the tariff and that fabricated material for use in such structures for that reason are entitled to the fabrication-in-transit service, not sustained. *Id.* (642).

Milling: While wheat was on hand at milling point, tariff was changed to provide for application of through rates. Combination rates on wheat from Beloit, Asherville, and Simpson, Kans., to Kansas City, Mo., for beyond, milled at Saffina, Kans., found unreasonable to the extent they exceeded the through rates, plus 1 cent per 100 pounds for out of line haul. *Western Star Mill Co. v. M. P. R. R. Co.* 467 (468).

Stoppage: Failure to stop for milling at Charleston, W. Va., a car of lumber shipped from Quick, W. Va., to Buffalo, N. Y., resulted in loss of milling in transit. Shipment was milled at Buffalo. Complainant found damaged to extent the expenses for switching, drayage, and milling exceeded those that would have accrued at Charleston. Reparation awarded. *Atlantic Lumber Co. v. T. & O. C. Ry. Co.* 368 (370).

Storage: Combination rate on wheat from Kansas City, Mo., originating beyond, to Chicago, Ill., stored in transit at Leavenworth, Kans., found unreasonable to extent it exceeded through rate applying on wheat milled in transit at Leavenworth, and subsequently established on such storage service. Reparation awarded. *Peirson-Lathrop Grain Co. v. C., B. & Q. R. R. Co.* 359 (360).

TRANSSHIPMENT.

Joint rate on Portland cement from Vulcanite, N. J., and Cementon, Pa., to Philadelphia, Pa., for transshipment by water, which exceeds by more than 10 cents per net ton the rate from Martins Creek, Pa., subjects complainants to undue prejudice. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 483 (487).

The Philadelphia & Reading should not be required to establish a lower rate on cement from Chapman and Evansville, Pa., to Philadelphia, Pa., for transshipment, than its local rate to that point. *Allentown Portland Cement Co. v. M. & M. T. Co.* 492 (494).

Defendant's demurrage rules applicable at Elizabethport, N. J., on coal in carloads for transshipment by vessel not found unreasonable. *Meeker v. C. R. R. Co. of N. J.* 657 (660).

Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., for transshipment, found justified. *Tidewater Demurrage*, 677 (684).

TWENTY-EGHT HOUR LAW.

The lawfulness and reasonableness of "yardage charges" for feeding, watering, and resting of hogs, in compliance with the 28-hour law is not within the Commission's province. *Pacific Coast Beef & Provision Co. v. O. S. L. R. R. Co.* 401 (402).

TWO FOR ONE.

Fifty-foot flat car ordered, two smaller flat cars furnished. Two for one rule applied only when excess was placed in box car. Charges collected on second car on basis of l. c. l. rate found legally applicable. *Dietly v. N. Y. C. R. R. Co.* 317 (319).

The mere failure of carriers to provide "two for one" rules is not *prima facie* unreasonable unless graduated minimum weights are provided for cars of different sizes. *Id.* (319).

TWO LINE HAUL.

Rates on cement are usually the same for a two and three line haul as for a one-line haul. This is particularly true of the rates from the Lehigh district to Philadelphia, which apply over various routes without regard to the number of carriers participating in the haul. *Vulcanite Portland Cement Co. v. C. R. R. Co. of N. J.* 488 (486).

UNDERCHARGES.

As the shipment was misrouted and the rate over the route specified by the shipper was equal to that collected over the route of movement, the outstanding undercharge may be waived. *Standard Oil Co. (Ky.) v. Y. & M. V. R. R. Co.* 418 (419).

May be waived. *Creamery Package Mfg. Co. v. St. L. & S. F. R. R. Co.* 303 (304); *Western Star Mill Co. v. U. P. R. R. Co.* 467 (468).

Involved. *Dietly v. N. Y. C. R. R. Co.* 317; *Du Pont de Nemours Powder Co. v. P. B. R. Co.* 363; *Warren Fish Co. v. L. & N. R. R. Co.* 376.

USE.

Connellsville coal is entitled to just and reasonable rates regardless of the purposes for which it may be used. *Lake Cargo Coal Rates*, 159 (171).

The only substantial difference between fabricated material for use in bridges and buildings, and fabricated material for use in towers, tanks, etc., is the use to which they are put, and it has long been held that rates can not be predicated upon the proposed use of the commodities transported. *Chicago Bridge & Iron Co. v. E. R. R. Co.* 641 (644).

VALUE.

Rates on ore and concentrates from points in New Mexico, to Douglas, Ark., dependent upon value, established subsequent to hearing, are satisfactory to complainant. Complaint dismissed. *Arizona Corporation Comm. v. A., T. & S. F. Ry. Co.* 297 (298).

Percentage relationship of transportation charges to the value of lumber shipped from the inland empire to c. f. a. territory shown. *Western Pine Mfrs.' Asso. v. C., I. & W. R. R. Co.* 650 (653).

VALUE OF COMMODITY.

Barytes: Crude barytes is worth from \$8.50 to \$9.75 per ton at the mines. *Harrison Bros. & Co. v. L. & N. R. R. Co.* 515.

Chatts, or zinc tailings, are worth about 15 cents per ton and are not susceptible of damage in transit. *Abel & Roberts v. M. P. Ry. Co.* 301.

Cotton: At the present time, sixty bales of cotton are worth about \$4,500. *Louisiana Cotton*, 451 (456).

Lumber, cedar: Value of cedar lumber shown and compared with that of other lumber. *Brown & Co. v. S. Ry. Co.* 536 (538).

VALUE OF COMMODITY—Continued.

Screenings: Flaxseed screenings are valued at from \$19 to \$21 a ton, while grain screenings are worth from \$10 to \$17.50 a ton f. o. b. point of origin. *Tarkio Molasses Feed Co. v. C., B. & Q. R. R. Co.* 17 (18).

Sulphur in bulk or in packages is valued at about \$25 per ton. *Du Pont de Nemours Powder Co. v. P. R. R. Co.* 363 (364).

Turpentine and rosin: Prices of, and how transported. *Barber Agency Co. v. K. & E. Ry. Co.* 523 (524).

VOLUME OF TRAFFIC.

Commodity rates are made with regard for the actual volume of movement, and relative commodity rate adjustments can only be reviewed satisfactorily when the relative volume of movement of the various commodities involved is known. *Commercial Club of Mitchell, S. Dak., v. A. & W. Ry. Co.* 1 (14).

Relative tonnage proportion of bituminous coal to all traffic handled by the originating carriers serving the various mining districts, years 1900-1915, shown in table. *Bituminous Coal to C. F. A. Territory*, 66 (110).

Table showing comparison of westbound commercial coal shipments on the N. & W. from the Pocahontas, Clinch Valley, and Kenova-Thacker fields, with all eastbound N. & W. shipments from these fields by years from 1900 to 1915, inclusive. *Id.* (123).

Tables showing the total shipments of coal from the Crescent, Ohio, Illinois, and Indiana districts, in tons, to destinations in "affected" territory, for years 1910 to 1915. *Id.* (124-125).

Shipments of bottle openers from Baltimore, Md., to the Pacific coast range from 80,000 to 100,000 pounds annually. *Crown Cork & Seal Co. v. P. R. R. Co.* 415 (416).

Statement as to eastbound movement of grain from Chicago, and per cent moving by lake and by rail, years 1896 to 1905. *Buffalo Grain Cases*, 570 (573).

Failure of grain to move in satisfactory volume can not be attributed to a maladjustment of rates, under such conditions. *Id.* (590).

Sweet and sour cream move for greater distances than milk, and the volume of movement in interstate commerce is greater. *C. F. A. Territory Milk and Cream Rates*, 691 (603).

Number of bales of cotton received at various points during nine-year period, 1905 to 1914, shown. *New Orleans Cotton Exchange v. L. & N. R. R. Co.* 712 (719).

VOLUNTARY REDUCTION. *See* REDUCTION IN RATES (BY CARRIERS).

WAR.

Beehive coke ovens in the Connellsville district have been working to full capacity, ascribed to the abnormal conditions induced by the European war which has created an unusual demand for all American products, including coal and coke. *Bituminous Coal to C. F. A. Territory*, 66 (133).

Present rates on lake cargo coal regarded by shippers and carriers as being in nature of emergency rates made necessary by the conditions arising because of the world war. *Lake Cargo Coal Rates*, 159 (192).

Water service from the Atlantic to the Pacific ports has suffered an interruption, and all indications point to a continued scarcity of boats for this service as long as the war continues. *Transcontinental Rates*, 236 (253).

The enormous amount of shipping that has been destroyed and the great demand for ships on account of the internment of some and the use of many others for purposes connected with the prosecution of the war have created an actual present world shortage of ocean-going steamships. *Id.* (267).

A war of unparalleled extent, drawing into its service a great part of the shipping of the world, has for the time being deprived these Pacific coast cities of the advantage of any substantial degree of water service. *Id.* (269).

WAR—Continued.

Paucity of tonnage handled by navigation company between Houston and Galveston, Tex., in 1915, due to commercial conditions incident to the war. Direct Navigation Co. 378 (381).

The supply of crude barytes from Germany ceased with the outbreak of the European war and a sudden demand for the Kentucky ore arose. Harrison Bros. & Co. v. L. & N. R. R. Co. 515 (516).

Coal to New England moving prior to the outbreak of the European war by vessel from Hampton Roads, Va., has largely been diverted to all-rail routes, increasing the congestion of cars at tidewater points. Tidewater Demurrage, 677 (680).

WASTE OF TRANSPORTATION.

Traffic traversing three sides of a square considered a waste of transportation. New Orleans Cotton Exchange v. L. & N. R. R. Co. 712 (751).

WATER COMPETITION. See COMPETITION (WATER).**WEAK LINES.**

Figures showing the operating deficit of the Birmingham Belt R. R. Co. Alabama Packing Co. v. A. G. S. R. R. Co. 335 (340).

WEIGHT.

The average weight of ties after being treated was 206 pounds. Ayer & Lord Tie Co. v. I. C. R. R. Co. 305.

Defendant failed to stop car of lumber for dressing as instructed, resulting in through charges on weight of rough lumber, but testimony with respect to the estimated reduction in weight lacks the degree of certainty necessary for an award of damages. Atlantic Lumber Co. v. T. & O. C. R. R. Co. 368 (369).

Charges on coal from points in Ohio, Kentucky, and West Virginia to Fenton, Mich., assessed on basis of track scale weights obtained at originating or intermediate points, alleged excessive. *Held*, Evidence adduced insufficient to justify Commission in disregarding such weights. Aetna Portland Cement Co. v. D., G. H. & M. Ry. Co. 407 (409).

Rule that charges on coal will be assessed on weights ascertained at defendant's regular weighing stations and that this rule will not be departed from, found unreasonable. *Id.* (409).

Difference in weight of carload of cedar posts which were weighed on track scale near point of origin and again at destination, alleged due to shrinkage. The assessing of charges on articles subject to shrinkage on basis of origin weights has been previously approved by the Commission. Ewing & Co. v. O. S. L. R. R. Co. 471 (472).

WEIGHT CERTIFICATE.

Proposed rule requiring shipper to deliver with each shipment of imported China wood oil and soya bean oil a sworn weigher's certificate, found not justified. Vegetable Oils Transportation, 674 (676).

WITNESS.

The evidence adduced is unsubstantial and insufficient where the complainant's only witness had no first-hand knowledge of the facts concerning the shipments. Southwestern Millers League v. A., T. & S. F. Ry. Co. 299 (300).

"YARDAGE CHARGES." See TWENTY-EIGHT HOUR LAW.**ZONE RATES.**

Rates from Buffalo and Pittsburgh to west-bank Lake Michigan ports lower than to intermediate points in Zone C, east-bank ports, will be authorized upon condition that rates to said intermediate points shall not exceed those authorized in the original reports. C. F. A. Class Scale Case, 475 (477).

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